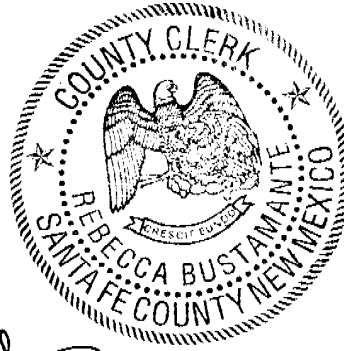


1217314
COUNTY OF SANTA FE
STATE OF NEW MEXICO

} ss

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 14 DAY OF Aug A.D.
20 02 AT 9:14 O'CLOCK a M
AND WAS DULY RECORDED IN BOOK 2178/2179
PAGE 978-076 OF THE RECORDS OF
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.



2178978

Marcella J. Gonzales
DEPUTY

SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

June 11, 2002

Paul Duran, Chairman
Jack Sullivan, Vice Chairman
Paul Campos
Marcos Trujillo
Javier Gonzales [excused]

SANTA FE COUNTY

2178979

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

June 11, 2002

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:16 p.m. by Vice Chairman Jack Sullivan, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance, roll was called by County Clerk Bustamante and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Duran [late arrival]
Commissioner Jack Sullivan
Commissioner Marcos Trujillo
Commissioner Paul Campos

Members Absent:

Commissioner Javier Gonzales

IV. Invocation

An invocation was given by Rabbi Leonard Hellman.

V. Approval Of The Agenda

- A. Amendments**
- B. Tabled or withdrawn items**

COMMISSIONER SULLIVAN: Do we have any amendments or tabled or withdrawn items, Mr. Lopez?

ESTEVAN LOPEZ (County Manager): Mr. Chairman, yes we do. The first—I'm going to go through the amendments and the tabled and withdrawn items together if that's all right, Mr. Chairman. The first item is, and it's not marked on your agenda, under the Consent Calendar, item A. 8, CDRC Case V 01-5590, Sharon Martinez, the findings of fact and conclusions of law for that, we'd like to table that. I was alerted

2178980

just a few minutes ago that staff in reviewing the document that has been prepared found some errors that need to be corrected in that document. So we ask that that be tabled.

Next, under Consent Calendar item D, the resolution requesting an increase in the general fund Project and Facility Management Department budget for a grant award from the EPA. We ask that that item be withdrawn at this time. That will be coming forward at a subsequent meeting after additional work has been done on it also.

Next, under Staff and Elected Officials' Items, under Matters from the County Attorney, the executive session, we've added item b. Discussion of the purchase, acquisition and disposal of real property or water rights.

Next, under the Public Hearings for the Land Use Department, item 3, Sonterra master plan. Just today we received a letter from the applicant requesting that that item be tabled. The letter came in after the time frame that has been designated by the Commission. Therefore that tabling is not automatic. It's at your discretion. I understand that there is a representative of the applicant available to answer any questions of him if the Commission would like to bring that up.

Next, also under the Public Hearings, item 4, The Bryan and Karen George variance. And item 5 under the Public Hearings, the Eleanor Gonzales variance, that case has been withdrawn. Mr. Chairman, those are the amendments, tabled and withdrawn items that we are recommending.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan, why don't you take it to the next agenda item.

COMMISSIONER SULLIVAN: Okay. Commissioner Trujillo.

COMMISSIONER TRUJILLO: Yes. On the tabled CDRC Case V 01-5590, that had been tabled various times because of agenda discrepancies or anomalies and now there's some problems with the documentation and it going to be tabled another time before it's finalized? It will be tabled to the next land use meeting?

MR. LOPEZ: Mr. Chairman, I believe it could come back at the next regularly scheduled meeting on the 25th.

ROMAN ABEYTA (Land Use Administrator): Right. And if I might just add, Mr. Chairman, Commissioner Trujillo, this is only the findings of fact. So the case has been finalized. This is just the finding of fact record and we noticed that we referenced the wrong ordinance in the finding of fact. So it's just a typographical thing we need to take care of. But that case has been decided. Now it's just the finding of fact.

COMMISSIONER TRUJILLO: So the applicant can proceed with survey plats and warranty deeds and all of that stuff to finalize the lot split.

MR. ABEYTA: Or, Mr. Chairman, I know what that reference is. We can change it now if the Board would like. The finding of fact refers to the Extraterritorial Subdivision regulations in it and it actually has to refer to the County Code. But I didn't know if the Board wanted to consider that or not. But that's the only change.

COMMISSIONER TRUJILLO: I think that's a minor discrepancy that we

2178981

can take care of here if the Board agrees.

MR. ABEYTA: If the Board's okay with that then staff doesn't have a problem making that change if it's approved.

COMMISSIONER TRUJILLO: And just reflect it on the minutes for the record that the change was appropriately made, right?

MR. ABEYTA: Right.

COMMISSIONER TRUJILLO: Do we need to make a motion?

COMMISSIONER SULLIVAN: We have another one to consider too. So you recommendation, Commissioner, is that we leave IX. A. 8 in and when we get to the Consent items we pull it off the Consent Agenda and make that correction.

COMMISSIONER TRUJILLO: Right.

COMMISSIONER SULLIVAN: Sounds reasonable, if that's the only correction.

MR. ABEYTA: That's the only correction. We needed to add a condition in there but I can bring that up when we discuss this case.

COMMISSIONER SULLIVAN: Okay. And then one other item. Mr. Scott Hoeft, is he here. Request to table CDRC Case MP 02-5050, which is the Sonterra master plan. Mr. Hoeft.

SCOTT HOEFT: Yes, Commissioner Sullivan. We desire to work with the neighborhood a little more.

COMMISSIONER SULLIVAN: Perhaps you could go ahead and either read your letter or provide the reason for the tabling.

MR. HOEFT: To work with the neighborhood. We have some issues that we need to address—setbacks, access, that have come out of the last meeting, San Cristobal meeting that we would like to go back to the neighborhood and talk to them again. So similar to the Thornburg master plan we would like to have a meeting with both of those and talk with the Villa Linda Subdivision people.

COMMISSIONER SULLIVAN: I know that you represent Thornburg also.

MR. HOEFT: That is correct.

COMMISSIONER SULLIVAN: Is it possible to get the two of them together?

MR. HOEFT: We plan to go July 9th. Which is the next BCC.

COMMISSIONER SULLIVAN: July 9th. Okay. Because they seem to be interconnected in terms of the access and so forth. Are there any questions from the Commission for Mr. Hoeft?

COMMISSIONER TRUJILLO: Do we need a motion?

COMMISSIONER SULLIVAN: If that's all right with the Commission we need a motion to approve the agenda with the removal of item IX. E; the addition of item X. D. 1.b; under the executive session, which would be discussing the purchase of real property and water rights; the tabling of item XI. A. 3, which is the Sonterra master plan, CDRC Case MP 02-5050; the tabling of item XI. A. 4, CDRC Case v 01-5610, that's the

2178982

Bryan and Karen George variance; and the withdrawal of item XI. A. 5, CDRC Case V 01-5600, the Eleanor Gonzales variance.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

CHAIRMAN DURAN: Second.

COMMISSIONER SULLIVAN: Moved and seconded. Is there further discussion?

The motion passed by unanimous [4-0] voice vote.

VI. Approval of the Minutes: May 10, 2002

CHAIRMAN DURAN: Are there any changes to the minutes of May 10, 2002?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a few administrative changes that I'd like to have the recorder make.

CHAIRMAN DURAN: Okay. Nothing substantial?

COMMISSIONER SULLIVAN: Nothing substantial.

CHAIRMAN DURAN: Okay, so the Chair will entertain a motion to approve.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second to approve the minutes with the minor changes suggested by Commissioner Sullivan.

The motion to approve the May 10, 2002 minutes as amended passed by unanimous [4-0] voice vote.

May 14, 2002

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of minor administrative changes I'd like the recorder to include.

CHAIRMAN DURAN: What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second with minor modifications.

2178983

The motion to approve the May 14, 2002 minutes as amended passed by unanimous [4-0] voice vote.

May 15, 2002

CHAIRMAN DURAN: Any changes to the May 15th meeting?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One minor change.

CHAIRMAN DURAN: Okay. Do you want to tell us what that is?

COMMISSIONER SULLIVAN: Sure. It's on page 2, right at the beginning. It says: "COMMISSIONER SULLIVAN: Mr. Chairman." It says "COMMISSIONER CAMPOS: Mr. Chairman." Then it says COMMISSIONER SULLIVAN: cp.

CHAIRMAN DURAN: What did you mean by that?

COMMISSIONER SULLIVAN: I don't know. I was going to ask the recorder.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

The motion to approve the May 15, 2002 minutes as amended passed by unanimous [4-0] voice vote.

VII. Matters of Public Concern - Non-action Items

CHAIRMAN DURAN: This is Matters of Public Concern. If there's anyone out there that would like to address the Commission on any matter this is the time to do so.

COMMISSIONER SULLIVAN: Mr. Chairman, before we start on that, I'd just like, I asked Mark if he's around to notify some of the people out on Route 14 that the Sonterra thing was—is he out there? They may want to come to the meeting anyway on other issues but if they're coming on the Sonterra thing I just wanted to try and get the work out because it's such late notice.

CHAIRMAN DURAN: Well, remind me as we go through the meeting to state that, because there might be some people that come in later.

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt and I live in downtown Santa Fe. I just want to make some personal comments in response to an article that I saw written by Commissioner Duran and Commissioner Javier Gonzales in the *New Mexican* entitled "Setting the record straight." They were referring to Rancho Viejo and other developments in the Community College District. And I think if we're to set any record straight it's important that we have many perspectives, so I'm just offering one more perspective. It's simply my own.

And that is that I do have a bit of a history with the County General Plan. I at one point

2178984

decided to make my community service coming to County Commission meetings and studying the good work that you do here. And I do this and chose to do this years ago. It's now five or six years, about six years. I did this simply as a concerned citizen, being a responsible concerned citizen and acting in my civic duty. For no other reason. At that time you were working on the General Plan and I felt that it was a very, very good plan and still feel that it's a very good plan, but even the best plans have problems and need to be tweaked.

And what I did notice at the end of that plan, it was right before the plan, and I don't remember the date, but it was just before the General Plan was to be adopted by the County Commission and there were a number of special interests that came into the County Commission meeting, and I remember this vividly. They were three people. I won't mention their names but they were definitely special interest and they came in and they wanted to amend the General Plan after years and years of work. And they had done this without any written—their request to do this was without any written documentation in their hands at that time but they just expected the County Commission to go along with this.

I, rather green, stood up here at this podium and said, You can't do this. You have nothing to even read on a two-dimensional piece of paper. They're wanting to change some significant things about the General Plan and one of the things that they chose to want changed was they wanted the status of new communities to be changed to be equivalent to having the rights that traditional villages would have. Now, I was concerned about that because even though I understand why we need new communities and why we need to think that way to kind of promote something in a pro-active way other than sprawl. So I do see the beauty of new communities. But I don't believe that we should give them carte blanche power because they aren't—they're pseudo communities to begin with. And still in the development or special interest hands until they have a history, which makes a community.

So I was nervous about that. In the end, I lost, but at least some time was taken to think about it and that's basically all I was asking at that meeting. I went home thinking about it myself because the reason I asked for that time was it was too much to think about in just that little notice without anything written on a piece of paper. So I went home and started thinking about new communities and I realized that in a way, that was the—we were discouraging subdivisions here at the County, which was in some ways a good thing, or at least poor subdivisions, and we were encouraging new communities clustered development that could empower themselves, and in some ways I could see the benefits of that.

But you also have to look for the flaws. And if there was any flaw I saw that in fact we were creating and enabling in one decision late in the night without much public input Commissioners who are perhaps tired to be able to in one vote pass the equivalent of an entire community. Now the ramifications of doing that are immense. And no human being, no matter how competent, could be so arrogant to think that they could understand the full depth of a decision like that.

So in the past few weeks, the County and the EZA has been faced with these very decisions where you've been passing millions and millions of square feet of commercial and residential development in the Community College District. And it's been a deep concern of

2178985

mine. I felt that these new communities in the Community College District and actually the commentary by Commissioner Duran and Commissioner Gonzales mentioned the fact that it mandated 15 percent affordable housing. Well, when the new Community College District has a potential of doubling the footprint of Santa Fe, 15 percent is nowhere near enough. We already know the balance of those that have and those that have not is terribly out-balanced and in my opinion, we could have used the Community College District to help be the solution to some of those economic disparities and to make our community healthier, which is all I'm trying to do and I know you're trying to do the same.

So that was one concern. Another concern as I aforementioned, is that one vote can actually enable an entire town or community and that needs to be looked at. I missed the last meeting because of personal matters but the meeting before I came—no, I actually watched it on TV, the Oshara meeting. And I saw that if a community is to develop the way Santa Fe and northern New Mexico and our area has developed over hundreds of years is in a timeless way. Now, maybe we don't have—I mean life is not perfect and things are moving a little faster than they did back then, but the fact that a community is developed in a timeless way means that it's balanced. You make decisions about residential and commercial, about water. You don't expect to have all the answers right up front in one vote.

Oshara came in and passed 12 million square feet of commercial space. I felt like where is it written that passing commercial space the highest and best use of any piece of property in terms of economics, is the wisest thing to do first.

CHAIRMAN DURAN: Carolyn, the Oshara project was an EZA matter, not a BCC.

MS. SIGSTEDT: I understand.

CHAIRMAN DURAN: So I need to ask you to try to wrap it up please.

MS. SIGSTEDT: All right. Well then I will get to one other. All I'm saying is there are some concerns I have. Another concern I have is the—I think, I'm not sure if Commissioner Sullivan is going to talk today about this but if he doesn't, I will. And I think it's a really important thing. I have always felt, and I even campaigned on this, that water, whenever possible, belongs in the public domain. Now we know right now, we have two sources of water. We have surface water and we have groundwater. We have surface water potentially from the Rio Grande in the county, and you're working on that and doing the hard work for that and that's good.

We have groundwater in supplemental wells, and I want to stress the word supplemental. The State Engineer, Tom Turney, never wanted the Buckman wells, and the reason I'm mentioning these it will refer to the County. The Buckman wells, the City of Santa Fe to become so dependent on those Buckman wells. They were always to be supplemental. And as you can see, we are totally dependent on them, especially now in dry times. In dry times, that's a good thing. So what the County—if the County is to have a healthy water system, you have to have a balance between surface water and groundwater. Your groundwater is wells.

The mistake that the County could make and has begun to make by going into a venture

2178986

with Rancho Viejo is not realizing that water belongs, whenever possible in the public domain.

CHAIRMAN DURAN: You have one minute, Carolyn.

MS. SIGSTEDT: All right. So what I'm asking is that if you keep your supplemental wells in the County, in the management of the County and ask your developers to come to the County with money rather than water rights so that you can be responsible and the brokers for water rights, then you have the ability to allocate water, to limit water. You are in control of water. And also, in my opinion, this is something that the State Engineer will recognize in a supplemental way and that is what you want.

By passing these—back to the large developments, by passing these large developments, what you're doing is you're allocating all your water for perhaps things that are not your highest priority. And what I'm asking you to do is rather than pass these huge developments in one vote, perhaps pass them in phases, and make sure that each phase represents all your priorities—affordable housing. So just the cream isn't skimmed off at the beginning. That's what I would ask you to do. And also those are human, responsible decisions that you're capable of doing well, where the other things is—

CHAIRMAN DURAN: Carolyn, I'm going to have to ask you to—you have ten seconds.

MS. SIGSTEDT: If it comes to a water budget or limiting growth in some way, if you allocate these huge developments you are limiting your power and your choices. Thank you.

CHAIRMAN DURAN: Thank you, Carolyn. I know that you had a lot more to say. I don't mean to cut you short but every time we talk about these developments we have public comment available to you. I would suggest that if you are really strongly opposed or have some concerns relative to each development that you should express those concerns when we hear those cases and not try to lump three County Commission meetings into a dissertation up here. You would be much more effective and you'd have more time to do that. We have a big agenda ahead of us. Next speaker please. Is there anyone out there that would like to address the Commission. Please step forward.

JIM UMMEL: Chairman Duran and Commissioners, my name is Jim Ummel. I'm immediate past president of the Santa Fe Area Homebuilders Association. I'm here on behalf of that organization and was asked by our current president, Kim Unger, to bring a very brief letter and read it to you. It's just a request we have just to put into the record.

Santa Fe County Commissioners, from Santa Fe Area Homebuilders Association. Dear Commissioners, it has come to our attention that you are considering putting together a Community College area water evaluation program or committee. We'd like to offer our services or the services of some of our members if this moves forward. Signed, Kim Unger, President.

I don't know who I give this to but I'd be happy to deliver it to somebody and I just wanted also to offer our services and input in other ways. We've over the last couple years been developing a green building program. It includes a manual. We've spent a couple years, thousands of dollars on it. I understand at this point that you are looking at your Codes and

2178987

rewriting your Codes and we'd like to offer that particular effort from our association to your Planning Department too if it would help. It addresses not only materials used but water use and related energy items. So we'd be very happy to work in any way we could. We've got a tremendous resource in our association. We've got over 650 member companies and within that probably people of expertise in many areas. So I thank you for your time and I hope we can be of help sometime.

CHAIRMAN DURAN: I'm sure you can. I'd like to assure you that if there's any changes to our ordinances that they will be done so with plenty of public input and cooperation with all the organizations that will be affected by the changes that we would ultimately adopt.

MR. UMMEL: Well, we appreciate that and last year when we worked with the County Fire Marshal on the wildlands fire interface I felt like it was a good pairing of organizations.

CHAIRMAN DURAN: I think we all have the same goals and vision for our community. Thank you.

MR. UMMEL: We do indeed. Thanks.

CHAIRMAN DURAN: Anyone else out there that would like to address the Commission. Please state your name for the record.

ROY MCKEAG: Mr. Chairman, Commissioners, my name is Roy McKeag. I'm a resident of Piñon Hills, a subdivision here near town. In the past two years, this Commission has approved four different lot split requests which added seven lots to what was when it was originally platted an 80-lot subdivision. Some of those have been family transfers and others just split for resale. And my concern is the additional draw on the water table and my own water well.

When you've approved these lot splits you've placed restrictions on each of the parcels of lots. You've placed restrictions like .25 acre-feet per parcel per year. You required water meters to be installed. And you've even required reporting on an annual basis of what the water usage is in these lots that were split. Unfortunately, I have found out that your staff just doesn't have the resources to even keep track of the restrictions, which parcels have restrictions in the county. They don't even have the ability to know which parcels, if you asked them by geographic location or otherwise, have restrictions on them, and of course they don't have the resources to monitor whether or not the restrictions that you have placed on these parcels are complied with.

So it seems like a problem to me and there are a couple—not today—but there are a couple more lot splits in good old Piñon Hills coming through the pipeline towards you. So what I wanted to do today was to ask you that you not approve any more lots splits in Piñon Hills until there's a resource to actually follow up and see that you have compliance with the restrictions that you place, the water usage restrictions that you place on these lot splits. Thank you very much.

CHAIRMAN DURAN: Thank you, sir. Anyone else out there like to address the Commission about anything? Okay.

2178988

VIII. Matters from the Commission

CHAIRMAN DURAN: Anyone have anything they'd like to say?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, two items. One is that at the May 10th Commission meeting, I believe Mr. Chairman you made a request of Judge Gallegos to see if she could find a person who could independently analyze out DWI expenditures and I just wondered if we had had any other contacts with Judge Gallegos about having somebody look at that.

CHAIRMAN DURAN: Robert, that's your shop. Have you had any discussion with the judge about that?

ROBERT ANAYA (CHDD Director): Mr. Chairman, we have not received any requests from her. I will contact her right now if you'd like me to see if she has somebody in mind for that. She has not brought anything forward to date but I will ask her to come up with some suggestions. Is that what you'd like me to do? And then bring that back.

CHAIRMAN DURAN: Just a friendly reminder, I think. She probably forgot. Or I can only imagine that she forgot. Just ask her and then have her get a hold of us or if you can let us know.

MR. ANAYA: Yes, sir, Mr. Chairman.

CHAIRMAN DURAN: Thank you.

COMMISSIONER SULLIVAN: The other item I had, Mr. Chairman, was one of the appointed members of the Community College Development Review Committee has not attended any meetings and the committee chair has asked me to bring it back to the Commission for some direction or action and I believe it was a member, Mr. Chairman, that you had appointed, Mr. Paul Fragua. Am I pronouncing that correctly?

CHAIRMAN DURAN: I don't know.

COMMISSIONER SULLIVAN: I think so, because he used to work for French and French.

CHAIRMAN DURAN: Didn't he work for Rancho Viejo for a while?

COMMISSIONER SULLIVAN: And he worked for Rancho Viejo for a while also.

CHAIRMAN DURAN: So he hasn't been attending?

COMMISSIONER SULLIVAN: He hasn't been to any of the meetings and the committee would like to have some more active representation.

CHAIRMAN DURAN: Sounds good to me.

COMMISSIONER SULLIVAN: I don't know if—

CHAIRMAN DURAN: I don't have—

COMMISSIONER SULLIVAN: Do you have someone you want to bring forward or you want the committee to make a recommendation?

CHAIRMAN DURAN: Why don't you have the committee make the recommendation?

2178989

COMMISSIONER SULLIVAN: Okay. I'll go back and have them—I'll ask them if they can put a name together.

CHAIRMAN DURAN: As long as they bring their own thoughts to the table.

COMMISSIONER SULLIVAN: Who else's thoughts would they bring?

CHAIRMAN DURAN: Well, I don't know. As long as they don't bring mine.

COMMISSIONER SULLIVAN: I'll ask the chair to bring a recommendation forward to the Board. Thank you. That's all I have.

CHAIRMAN DURAN: Well, I have one question and it's actually, I have a question of you, Commissioner Sullivan. I read the paper today but for some reason I missed an article I guess that was on the front page. I don't know how I missed it. But it basically said that you were, and correct me if I'm wrong because this is all hearsay, that you were trying to spearhead an effort to take over the State Engineer's job relative to the issuance of well permits in the Community College District? That you wanted the issuance of any wells, the issuance of any permits for wells to be drilled in the Community College District to be a decision made by this body. Is that accurate?

COMMISSIONER SULLIVAN: I think one of the items, Mr. Chairman, that we have on the agenda is the request that I made by resolution and you asked it to come forward to publish title and general summary.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: Stating that wells, that the Community College District would be served by the County water system, and that the County would be the applicant for any wells that would be drilled because the County would best represent the entire district, and not individual applicant to be the applicants. Now those wells might be drilled in the Community College District. I'm not saying that there wouldn't be any wells drilled. I'm saying that the requirement would be that developments be on the County water system, be served by County water and if that required that wells be drilled, that the County be the applicant.

CHAIRMAN DURAN: Okay. We talked about that last meeting.

COMMISSIONER SULLIVAN: We talked about that last meeting. And I think you may be referring to an article in today's *Journal North*.

CHAIRMAN DURAN: That's why I didn't read it.

COMMISSIONER SULLIVAN: It's in the *Journal North*. I have it here if you would like to read it. I think it's fairly accurate. It quotes me as saying, "We need County water to support the Community College District," Sullivan said. "The County may need to drill new wells. These wells may fall within the Community College District. That decision should be the County's, not the developers'"

CHAIRMAN DURAN: Okay. That's what you said at that last meeting.

COMMISSIONER SULLIVAN: It hasn't changed.

CHAIRMAN DURAN: Okay, thank you. It goes to show you can't believe everything you hear. Anything else from Matters from the Commission?

2178990

IX. Consent Calendar

- A. Request adoption of findings of fact and conclusions of law for the following land use cases:**
- 1. CDRC Case #V 02-5060 - Gilbert Gonzales Variance (denied)**
 - 2. CDRC Case #V 01-5620 - Laura Franco Variance (approved)**
 - 3. CDRC Case #V 01-5540 - Patrick Portillo Variance (approved)**
 - 4. CDRC Case #V 01-5450 - Francisco Diaz Variance (denied)**
 - 5. CDRC Case #V 02-5040 - Joan Morales Variance (approved)**
 - 6. LCDRC Case #MIS 00-5812 - Vallecitos de Gracia (approved)**
 - 7. EZ Case #MP 01-4261 - Tesuque Creek Subdivision (approved)**
 - 8. CDRC Case #V 01-5590 - Sharon Martinez Variance (approved)**
- B. Resolution No. 2002-70. A resolution requesting an increase to the general fund (101)/Local DWI grant program to budget additional revenues received from the NM Department of Finance and Administration for expenditure in fiscal year 2002 (Community and Health Development Department)**
- C. Resolution No. 2002-71. A resolution requesting an increase to the law enforcement protection fund (211) for additional revenues received from the New Mexico State Highway and Transportation Department for expenditure in fiscal year 2002 (County Sheriff Department)**
- D. Resolution No. 2002-72. A resolution requesting approval of the Santa Fe Solid Waste Management Agency fiscal year 2003 budget as approved by the Solid Waste Management Agency Board (Finance Board)**
- F. Request approval to accept offer regarding IFB #22-52, Agua Fria landfill passive methane extraction vents project (Public Works Department)**
- G. Request authorization to accept and award a construction contract agreement in response to IFB #22-45 for construction of water system extension improvements for Entrada La Cienega (CR-50F) and Paseo C de Baca (CR-50) (Utilities Department)**

CHAIRMAN DURAN: Are there any cases on here that the Commission would like to isolate for further discussion? Just relative to the land use cases?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: A. 2, 3, 5, 7 and 8 for discussion.

CHAIRMAN DURAN: Any other ones? Okay, the Chair will entertain a motion to approve items IX. A. 1 and 4, and 6.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

2178991

The motion to approve IX. A. 1, 4 and 6 passed by unanimous [4-0] voice vote.

- IX. A. 2. CDRC Case #V 01-5620 - Laura Franco Variance (approved)**
3. CDRC Case #V 01-5540 - Patrick Portillo Variance (approved)
5. CDRC Case #V 02-5040 - Joan Morales Variance (approved)
7. EZ Case #MP 01-4261 - Tesuque Creek Subdivision (approved)
8. CDRC Case #V 01-5590 - Sharon Martinez Variance (approved)

COMMISSIONER CAMPOS: Mr. Chairman, item 2, 3, and 5, I would make my general objection that the Board does not have jurisdiction to grant these variances and therefore should not be approving these three cases. As to 7, the Tesuque Creek Subdivision, we discussed additional language about fire issues, and that would be on page 8, paragraph number 13. I assume this was prepared by legal. Are you there, Mr. Kopelman? I was hoping that this we could add language that this statement be one, conspicuous, and two, note that there is a heavy fuel load in the area. When we talk about fire safety concerns, and that there's not only a possibility of additional expenses but there's a need for additional expenses based on the area where this subdivision is located. I think it's important that this language be conspicuous and I think it needs to be a little stronger. I think the heavy fuel load out there is important to point out to people. And there definitely will be additional expenses to the landowner for building materials and for the provision of defensible space. Does that make sense, Mr. Kopelman, Mr. Abeyta?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, yes. I don't remember the exact language in the minutes because I know we did address this and I don't remember exactly what we said. We probably should check the minutes also to make sure that that's consistent with what the Commission decided. It might make sense to table this one so we can go back and be real careful, make sure we have the exact language that we discussed. Unless the Commission wants to just agree on what on language now.

COMMISSIONER CAMPOS: I would ask that the Commission agree to this language, that it would be conspicuous. In other words, it would be very prominently displayed so a buyer would see this in the disclosure statement, and two, there would be additional language as to the fuel load problem out there, that it is a serious problem and that's something that needs to be known by the prospective purchaser. I think, Mr. Kopelman, we discussed this issue very generally and not in that detail. I don't think the minutes would show more than what you have in this condition.

COMMISSIONER TRUJILLO: Mr. Chairman, isn't that addressed in the urban ordinance regarding the dense vegetation and clean-up efforts in that whole area there. That is quite conspicuous and if we referred to it in the findings of fact, wouldn't that suffice?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I was going to suggest that we probably should put something in here noting that it is subject to the provisions of the urban wildland interface.

COMMISSIONER CAMPOS: You have stated that, Mr. Kopelman.

2178992

MR. KOPELMAN: Okay, I'm sorry. It is in there. Right. So that's in there. That has some of that language and again, I think it's really up to the Commission how specific you want to be on this particular provision.

CHAIRMAN DURAN: I recall that we had a lot of discussion about this issue and they agreed that they would incorporate some language in their disclosure statement that would notify a perspective buyer of the concerns that you have. Something other than in big bold at the top, but something more than small print. But that it was an issue that you felt needed to be highlighted within the disclosure. But I recall we had that conversation.

COMMISSIONER CAMPOS: We did have that conversation. It's just not here in the conditions. I would just add "conspicuous." In a lot of legal documents when language is conspicuous it's just in bold, or not necessarily in bold but in caps or bold so that it's prominently displayed.

CHAIRMAN DURAN: Roman, doesn't the disclosure statement have to come to you for approval?

MR. ABEYTA: Mr. Chairman, that's correct. We will review the disclosure statement before we file the plat.

CHAIRMAN DURAN: Can you make sure that it has Commissioner Campos' concerns?

MR. ABEYTA: Yes.

CHAIRMAN DURAN: Perhaps you could just even give him a copy of it before you—is that acceptable?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Maybe I could just make a couple of amendments to the language that's in there and this might address it.

CHAIRMAN DURAN: We can't make additional conditions. We're not here to rehear the case.

COMMISSIONER SULLIVAN: No, no. I'm just recalling the discussion of that meeting and if you don't like the language we can just table it and have legal put it together. But item 13 says now, "The disclosure statement must include a statement regarding concerns for fire safety." And just a change that perhaps would address Commissioner Campos' comments would be, "The disclosure statement must include a prominently placed statement regarding concerns with fuel loads, fire safety" just before said fire safety.

Then the only other change on the second line, and it says, "and the possibility of additional expenses by landowners." Change that to "and the likelihood of additional expenses by landowners." Does that add a little more emphasis to the issue? Mr. Kopelman, is that—

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I think that language would be consistent with the discussion that you had on the May 14th meeting.

COMMISSIONER TRUJILLO: So Mr. Chairman, that being the case, are we now going to start putting in documents that there's a potential for floods in drainage areas? That there's a potential for other such things in other areas? I think that the ordinances that we

2178993

have in place take care of those sorts of situations. We do not need to get more detailed in the documentation that we have to make landowners put in place. Are we going to take it to the next level and have this sort of language in all the documentation coming through this Commission commensurate with the national flood insurance, with the wildfire ordinance, with other sorts of things? Why do we need to do that? I'm perplexed.

COMMISSIONER CAMPOS: Mr. Chairman, I think we've already done that. We're just clarifying the language on this one. We've already approved that condition. We're just clarifying.

COMMISSIONER TRUJILLO: Are we going to do it for drainage areas?

COMMISSIONER CAMPOS: Well, if we choose to we could.

COMMISSIONER TRUJILLO: We've already got the ordinances in place to take care of that. There are checks and balances. People know when they're buying in a forest that there's a potential for fire. Why do we need to describe it or capture it in the documentation?

COMMISSIONER CAMPOS: We've already done that. We're just cleaning up the language in this case and we can discuss the other issues.

COMMISSIONER TRUJILLO: I think that's too detailed. That's going overboard.

CHAIRMAN DURAN: Is that everything that you want to talk about relative to the cases that you've isolated for further discussion, Commissioner Campos?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN DURAN: Commissioner Sullivan, do you have anything you'd like to bring up relative to these cases?

COMMISSIONER SULLIVAN: No.

CHAIRMAN DURAN: Commissioner?

COMMISSIONER TRUJILLO: Are we going to talk about case number 8 where we need to correct, rectify the record?

MR. ABEYTA: Mr. Chairman, that's correct. Case number 8 we need to change the reference to the Santa Fe Extraterritorial Subdivision Regulations to the County Code, because it is not within the EZ jurisdiction. And also condition number 6 was amended to read that "The applicant shall obtain approval from the Environment Department for the septic tanks already in place." The original condition was that they obtain permits, but since they're not able to obtain permits the condition was later changed that they notify the Environment Department that the tanks are already in place. So we would just add that as a sixth condition to this case, which is consistent with the motion of the meeting on May 14th.

CHAIRMAN DURAN: Well, let's—there doesn't seem to be any dissention amongst us on items 2, 3, and 5, and 8. Would you all agree on that? Except your—

COMMISSIONER SULLIVAN: Could you, Roman, read what 6 would be again?

MR. ABEYTA: I have a copy of the minutes here, Mr. Chairman, Commissioner Sullivan. Condition number 6 would read "The applicant shall obtain approval

2178994

from the Environment Department for the septic tanks already in place.”

CHAIRMAN DURAN: Because they can't get a permit.

MR. ABEYTA: Right. So the discussion was—I know it was Commissioner Sullivan who had mentioned that they should at least at a minimum talk to the Environment Department, let them know what's there and not necessarily receive permits from them but to put them on record that that's what's there. And there's three or four references in the document to the Santa Fe Extraterritorial Subdivision Regulations. We need to just change that to the County Code, because this property is not within the EZ jurisdiction.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN DURAN: Steve, if we don't approve the findings of fact and conclusions, what happens?

MR. KOPELMAN: Mr. Chairman, members of the Commission, the same thing that we do if it's a 2-2 tie. We'd have to bring it back again when there's five Commissioners here.

CHAIRMAN DURAN: But what happens if we disapprove them?

MR. KOPELMAN: Mr. Chairman, I think we need to get to a point at some stage, maybe staff needs to go back and rework the document. But the state statute requires there be a written decision so we probably just need to keep working on it till we get it.

CHAIRMAN DURAN: And if we never get it? Does the case come back for further discussion and—

MR. KOPELMAN: Mr. Chairman, the state law isn't fully clear but the position that we've taken in some court pleadings is the vote is really when you vote initially on the case. That's the decision. The written decision just really memorializes that. So the position we take is once you vote on it the decision is made but again, the state law is a little unclear and from a legal standpoint I'd certainly feel much more comfortable having something approved by the Commission. So hopefully, you can negotiate to get a majority to vote on it.

CHAIRMAN DURAN: So if I was an applicant, would I have anything to worry about. Could I do whatever I was approved to do?

MR. KOPELMAN: Mr. Chairman, I think we could issue permits and the like, yes. The issue becomes whether there's going to be an appeal on that case. That's what the written decision is mainly for. Then that document goes up to the district court and the district court would review the written findings in connection with the decision. So again, I think the state law does require that we have a written finding of the decision.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: No, I just want to move for approval of items 2, 3, 5 and 8.

CHAIRMAN DURAN: And we're still going to talk about 7.

COMMISSIONER TRUJILLO: So I'll move to approve those.

CHAIRMAN DURAN: I'll second that. Any further discussion?

2178995

The motion to approve Consent Calendar items A. 2, 3, 5 and 8 passed by majority [3-1] voice vote.

CHAIRMAN DURAN: Item 7, anybody want to make a motion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'll move a change in wording to condition 13, stating "The disclosure statement must include a prominently placed statement regarding concerns with fuel loads, fire safety and the possibility likelihood of additional expenses by landowner, etc."

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve Consent Calendar item A. 7 tied by a [2-2] voice vote, with Commissioners Sullivan and Campos voting in the affirmative and Commissioners Duran and Trujillo voting no.

CHAIRMAN DURAN: I'm going to vote no because I agree with Commissioner Trujillo. It's already in the minutes. We had hours of discussion about it. The applicant knows that they need to disclose this to the public and even in our development review process, that's one of the items that needs to be approved by staff and staff has clearly been made aware that you have that concern. I vote no.

COMMISSIONER CAMPOS: What's the status of this decision? Is it tabled until the next hearing?

MR. KOPELMAN: Mr. Chairman, members of the Commission, that would be what would happen here. We have a 2-2 tie on a matter. So we could come back at the next meeting when we have five members.

CHAIRMAN DURAN: Okay. Let me ask the Commission, are there any items on the Consent Calendar that you would like to isolate for further discussion? That would be B, C, F or G. E has been tabled.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: F and G, please.

CHAIRMAN DURAN: Any other items? Commissioner Campos, do you have any?

COMMISSIONER CAMPOS: No, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo? I have none. So the Chair will entertain a motion to approve on the Consent Calendar items B, which is Resolution No. 2002-70, item C, Resolution No. 2002-71. Shall I read that into the record?

MR. KOPELMAN: Mr. Chairman, you don't need to read the title. As long as it's noted the number of the resolution for the agenda item.

2178996

CHAIRMAN DURAN: For our TV audience, I'll just give a brief description. A resolution requesting an increase to the general fund to the Local DWI Grant program. Item C, which is Resolution No. 2002-71, a resolution requesting an increase to the law enforcement protection fund and item D, Resolution No. 2002-72, a resolution requesting approval of Santa Fe Solid Waste Management Agency fiscal year budget. And that's it. So there's a motion to approve those items. There's a second.

The motion to approve Consent Calendar items B, C, and D passed by unanimous [3-0] voice vote. [Commissioner Trujillo was not present for this action.]

IX. F. Request approval to accept offer regarding IFB #22-52, Agua Fria landfill passive methane extraction vents project (Public Works Department)

CHAIRMAN DURAN: Commissioner Sullivan, you have questions?

COMMISSIONER SULLIVAN: Mr. Chairman, I have two technical questions but then also I wanted to have just a brief summary of why we're doing this. Is it a requirement from the Environment Department or just what's going on here? Do we have a problem?

JILL HOLBERT (Solid Waste Manager): Do you want the summary first?

COMMISSIONER SULLIVAN: Yes.

MS. HOLBERT: Mr. Chairman, Commissioner Sullivan, yes, we have a problem out there. We have eight methane monitoring wells. We are required to monitor for methane generation in the old landfill four time per year. In our monitoring four times per year we have consistently exceeded the lower explosive limit set by the state at one of the wells, which means that we are not in compliance. So in order to gain compliance, we need to release methane into the air so we can alleviate the explosive concentration that we're getting in those wells.

COMMISSIONER SULLIVAN: So we've had this designed by an engineer and they've determined the number of vents that we need?

MS. HOLBERT: Yes, Commissioner Sullivan. Souter Miller and Associates was our engineering firm that we contracted with for this. They looked at the methane generation. They looked at the pattern of methane generation and they determined that this was the number of wells we would need and the location of the wells as well.

COMMISSIONER TRUJILLO: Is this a joint effort between the City of Santa Fe and Santa Fe County?

MS. HOLBERT: Mr. Commissioner, no. We originally went out to bid for Souter Miller's services jointly. And they provided us with specified prices for their services and then we are all buying off of that same bid. So even though they bid it as kind of a joint effort between the regional landfill, the City and the County, we are asking them

2178997

to provide us a little bit different services from their firm.

COMMISSIONER TRUJILLO: And so the City of Santa Fe is responsible for the same sort of thing?

MS. HOLBERT: Yes, Mr. Commissioner, yes. They are responsible for their landfill. They are using Souter Miller for design services similar to what they're doing and they have their own issues with groundwater and methane.

COMMISSIONER TRUJILLO: If we don't rectify this problem it will get into the water table. It will contaminate the water table. What happens if we don't do this?

MS. HOLBERT: Commissioner Trujillo, it is a possibility it could enter the water table, but I think even more serious is that it could create an explosion at the City municipal park out there with either the snack bar. There's also a maintenance building out there. The methane limits could eventually build. At this point we have been testing those facilities and they come out to basically zero. But in the future that methane can migrate and we would look for potential explosive problems in those facilities.

COMMISSIONER TRUJILLO: So the wind blows in an easterly direction, right?

MS. HOLBERT: Commissioner Trujillo, at this point this methane is traveling underground. And what we are trying to do is vent it into the atmosphere where the concentration will dissipate in the atmosphere and it will no longer be of an explosive nature.

COMMISSIONER TRUJILLO: So it won't have any negative impact on our communities in and around the area where it's being released?

MS. HOLBERT: Commissioner Trujillo, that is correct. It's actually—the lower explosive limit for methane is actually quite low. Methane is a highly explosive gas. Once it enters the atmosphere it dissipates quite quickly and there should be absolutely no impact on the surrounding communities. Our concern is the methane contained within the landfill and traveling underground where it can build in a concentration that becomes explosive.

COMMISSIONER SULLIVAN: Perhaps we could clarify, this is the Agua Fria landfill. This is the County landfill, correct?

MS. HOLBERT: That is correct.

COMMISSIONER SULLIVAN: The County has how many landfills?

MS. HOLBERT: This is the only Subtitle D. landfill that the County has. Subtitle D refers to RCRA. We have a number of old dump sites that are basically unregulated other than the fact that they have to have cover. But this is the only landfill that the County has operated that requires methane and groundwater monitoring. It was closed under Subtitle D of RCRA.

COMMISSIONER SULLIVAN: And the others that you mentioned are closed also, correct?

MS. HOLBERT: Yes. Mr. Commissioner, the other ones are all closed. Most of them are currently transfer stations.

COMMISSIONER SULLIVAN: So the County doesn't currently operate a landfill.

MS. HOLBERT: That is correct.

COMMISSIONER SULLIVAN: We use the regional.

MS. HOLBERT: Yes.

COMMISSIONER SULLIVAN: So we're just providing methane control to a closed landfill.

MS. HOLBERT: Mr. Commissioner, that's correct. We are required under state law to monitor that landfill for a period of 30 years. We're only in our second year of that monitoring period. We're trying to alleviate the problem early.

COMMISSIONER SULLIVAN: Then two other questions I had, and these may be more for legal than for staff. And one is on liquidated damages. I think it was \$500 a day. We did a contract not too long ago having to deal with, I think it was the communications equipment for the emergency center. And in that contract, I believe, Mr. Kopelman, your recommendation was that we have a time certain but that we not place a liquidated damages on it because the damages might in fact be more than that and we would be limiting ourselves to that. This contract has a limit of \$500. Is there a difference here? Or is there a policy that we need to be following?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we don't have a policy really and I think that in terms of construction agreements and these types of contracts, I think they're reviewed really on a case by case basis. Sometimes the liquidated damages clause is appropriate. Sometimes it might not be. I think in this case there's probably no reason not to have it in here because it's really just a time element. I don't think we're in a situation where our damages would be greater than that. I'm not sure that I can conceive of a situation in all likelihood that it would be. I guess if they go over the time frame and something does happen. There's an explosion, arguably, that might be an issue. But I think we would be entitled to get also incidental damages in a case like that.

COMMISSIONER SULLIVAN: So you're comfortable then with the \$500.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, in this contract I think it's appropriate, yes.

COMMISSIONER SULLIVAN: Okay, and then the other question was on this contract. I noticed for dispute resolution, it calls for arbitration, binding arbitration, I believe. Is that our typical dispute resolution language?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, it's not uncommon for us to have provisions in construction agreements and the like to go for binding arbitration. It's usually a quicker forum to resolve issues. We don't have a policy whereby we always do one thing or another and sometimes it's the nature of the contract. It may be more appropriate in construction agreements to have arbitration clauses. They're a lot more common, whereby in services contracts we often don't have arbitration provisions. But sometimes it's negotiated in and sometimes it's not. Usually, it's six of one, half a dozen of the other.

2178999

COMMISSIONER SULLIVAN: The only reason I ask is it seems like for the most part, particularly on smaller construction contracts like this one, which is only around \$50,000, that they're going to a mediated dispute resolution process where first step is that both parties try to arrive at mediation because arbitration is very expensive. It's just like going to court. You have exhibits and you have testimony and you have a paid arbitrator of course and it's fairly expensive. So I just wondered if on any of our contracts, we're thinking about going into mediation instead of arbitration.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we've had some agreements where we've had provisions that require a mediation process and if that's not successful, then it can go either to court or to arbitration. And again, it's something that our office has looked at amending our boilerplate language and we're in the process of looking at that. But it's not at the top of the list. But it's something that we can certainly look at and talk more about in the future.

COMMISSIONER SULLIVAN: I just bring it up because I think particularly for smaller contracts, under \$100,000, it's a quicker way to get at issues. Normally they come up as a result of change orders and time extensions and things of that nature and often the staff does that just in terms of working with the contractor but if they run into a blank wall then that requires the contractor and ourselves to go to a mediator and sometimes in a day, that person has the problem unscrambled. I don't want to change the contract if you're comfortable with the arbitration but I just bring it up for future consideration.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we'll look at those issues and spend a little time on staff and come up with a proposal to the Commission maybe as to how to go forward in the future on that.

COMMISSIONER SULLIVAN: Mr. Chairman, I move for approval of item IX. F if there's no other questions, Mr. Chairman.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to approve IX. F passed by unanimous [4-0] voice vote.

- IX. G. Request authorization to accept and award a construction contract agreement in response to IFB #22-45 for construction of water system extension improvements for Entrada La Cienega (CR-50F) and Paseo C de Baca (CR-50) (Utilities Department)**

CHAIRMAN DURAN: Any questions of Doug, Commissioner Sullivan?

COMMISSIONER SULLIVAN: I know that we've been working for a while

2179001

with Doug on getting lines down to La Cienega. I have two questions. The first is who pays for this?

DOUG SAYRE (Water Utility Director): Mr. Chairman, Commissioner Sullivan, this is a combination of one, a grant from the state for \$91,400 through their construction legislative agreement, through the Construction Programs Bureau. So they will cover that. And the second item is that we budgeted GO bonds for about \$250,000, I believe, to cover that cost. And then also, the users in this area will cover a percentage of the cost down Paseo C de Baca. About 50 percent in a repayment schedule. And that was approved I think approximately two years ago that they would pay a certain percentage for the improvements to get this line down in to the Paseo C de Baca area.

COMMISSIONER SULLIVAN: Does that also involve them transferring over to the County a quarter acre-foot of water rights?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, yes it does.

COMMISSIONER SULLIVAN: In addition to the payment they have to make.

MR. SAYRE: Yes.

COMMISSIONER SULLIVAN: One reason I ask that, because, and I'm not sure if you'll be here later on this evening. One of the items coming up under the Public Hearings is CDRC Case 02-5120, Dimitria and Dennis Saiz, and that's a case apparently, from what I read, very close to where this waterline will be going. Are you familiar with that particular one?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, I'm not familiar with exactly where that particularly subdivision is. Maybe Roman—

COMMISSIONER SULLIVAN: Part of the testimony was that, at least from the—and we can wait to discuss this later but I just wasn't sure if you were going to be here was that the new line was coming in and could service this lot where they're requesting an additional well or a lot split or a multiple use of the well. And there was just discussion as to whether this line was ever going to come and that's why they wanted to go ahead because they were uncertain about the time table. So my question was, is the project the one that's serving that area?

MR. SAYRE: I'm sorry, Commissioner Sullivan, I can't answer that particular question.

COMMISSIONER SULLIVAN: Maybe we could come back to that later.

MR. SAYRE: I'd be glad to research it and come back to you on it about that. Because this project serves down Entrada La Cienega to the community center, and then all the way down to the end of Paseo C de Baca. Now, the design is such that lines could be extended out from these main lines to serve other parts of the area. So we have that in mind. And also with the cost we got, we're under budget and we should be able to extend lines into areas that there's some need that's based on what you're talking about.

COMMISSIONER SULLIVAN: Well, there was some testimony and the individual apparently is a plumber and he was requesting the waiver of doing a geo-hydrological test and he estimated that hooking into the line would cost \$2,000 to \$3,000,

2179002

which would be less than a geo-hydrological test. So when we got to that item I wanted to see if this was the line we were talking about, because it would seem like if we were that close to getting the water down to him, then that's a better alternative than what was being recommended. Maybe you could look at that and come back to us.

CHAIRMAN DURAN: Doug, why don't you find out and let Roman know so that when the land use case comes up he can let us know and you don't have to hang around.

MR. SAYRE: Mr. Chairman and Commissioner Sullivan, I'll do that.

CHAIRMAN DURAN: Okay, good. Thank you. Any other questions of Doug?

COMMISSIONER SULLIVAN: Move to approve item IX. G, the award of the construction agreement in response to IFB 22-45.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second.

The motion to approve IX. G passed by unanimous [4-0] voice vote.

CHAIRMAN DURAN: Thank you, Doug.

MR. SAYRE: Thank you very much.

X. Staff and Elected Officials' Items

A. Finance Department

- 1. Request authorization to award a professional services agreement for the second year of a multi-year contract, RFP #21-49, to Neff and Ricci, LLP, to conduct the financial and compliance audit for the fiscal year ending June 30, 2002**

KATHERINE MILLER (Finance Director): Mr. Chairman, I stand for questions. This is our annual audit. The contractor that we had perform the audit last year, we bid a multi-year contract for up to four years and we're requesting authorization to renew that contract for the fiscal year 2002 audit. The State Auditor requires us to not just amend the contract to extend it for an additional year, but to resubmit the agreement in its entirety. That's why it's not written out as an amendment. But we're requesting authorization to submit that contract for your approval.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: There's a motion and a second. Any further discussion?

The motion to approve awarding the compliance audit to Neff and Ricci passed by unanimous [4-0] voice vote.

2179003

X. B. Land Use Department

1. **Presentation from San Marcos residents requesting contemporary community status to include designation of a contemporary community planning boundary and the creation of a contemporary planning committee.**

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chairman. Good afternoon, Commissioners. Jack Kolkmeier, Planning Director. The item on the agenda this afternoon regards a presentation from San Marcos residents requesting designation of contemporary community status, designation of a contemporary community boundary, and recognition of a contemporary community planning committee. Mr. Hugh Nazor is here representing San Marcos Association and other members who have been involved in this request.

Residents from the San Marcos area and from other subdivisions in the vicinity are requesting these designations according to various sections of Santa Fe County Ordinance No. 2002-3, also known as the Santa Fe County Planning Ordinance. In addition, they are also requesting recognition of a planning committee and recognition of initial contemporary community boundaries. According to the provisions of this ordinance, an area where the dominant development pattern has been determined by land subdivision or land platting, but is not designated as a traditional community, this entity may apply for contemporary community status. Once the status is granted, a contemporary community can then move forward to be approved for a formal community planning process including creation of a planning committee and mapping of proposed community boundaries.

The 1999 Santa Fe County Growth Management plan in fact mentioned San Marcos as a potential contemporary community. At a Board of County Commission meeting on March 12th, this past March, Planning Division staff outlined 41 current projects being handled by a staff of four planners and one GIS specialist. At that time, we also indicated the need to begin community planning in the traditional communities of Pojoaque, and Agua Fria. We were directed at that time to focus on these communities, particularly since Pojoaque had made a previous request a year ago to begin planning and we had to ask them to wait because of a lack of staff and because of recent concerns about annexation raised by residents of the Agua Fria area.

Planning staff also recommended additional times to look at boundary and representation issues in the proposed San Marcos area. Our suggestion at the March 12th meeting was to come back with a recommendation at the end of the summer. The Planning Division has still not replaced the community planning position vacated by Alina Bokde when she took on open space planning activities over a year ago. In fact if you look back, it's almost two years that she became involved in open space and she was originally hired as a community planner.

COMMISSIONER CAMPOS: Mr. Chairman.
CHAIRMAN DURAN: Commissioner Campos.

2179004

COMMISSIONER CAMPOS: I have a question for Mr. Kolkmeier. It seems that nothing has changed since 3/12. We still don't have the resources to move forward. We have other priorities right now that are in the works. So why is this up here again? Why are we considering this again today?

MR. KOLKMEYER: Because the community has the right to come forward and request that and they have not been—they have not formally done that and have not been either accepted or denied.

COMMISSIONER CAMPOS: So on 3/12 the Commission decided to table this or postpone any decision to the end of the summer. Is that right?

MR. KOLKMEYER: Well, that was our recommendation, but then this matter went on to CDRC at its last meeting, and then CDRC made a recommendation to bring it forward to the BCC today.

COMMISSIONER CAMPOS: Okay. But the facts, as far as resources, are the same.

MR. KOLKMEYER: They are exactly the same.

COMMISSIONER CAMPOS: Okay.

MR. KOLKMEYER: In fact given the budget recommendations that are going forward now, as I understand we will be given one additional planner, which really brings us back to our minimal position of when we had Alina Bokde.

CHAIRMAN DURAN: Jack, I have a question.

MR. KOLKMEYER: I'm not quite finished. Can I finish the presentation or shall we just go for it?

CHAIRMAN DURAN: I want to ask you a question. I thought that we had talked about prioritizing the community plans. This kind of ties in with what Commissioner Campos had said.

MR. KOLKMEYER: We did, sir.

CHAIRMAN DURAN: I thought that we had talked about prioritizing the community plans, contemporary or traditional so that we could move forward with that process based on the staff that we had and those that had requested, and in priority those that had requested to be considered as a community, that had requested a community plan be developed.

MR. KOLKMEYER: Mr. Chairman, we did, and that was our discussion at the March 12th meeting and our priorities were that we could only embark on two new plans, given the current staff status. That was that we would do Pojoaque. We met with Pojoaque last night, by the way, and they will officially come forward after a number of community meetings that they want to do in August or September and we have a meeting scheduled for the 18th, next Tuesday in Agua Fria and they want to also conduct a number of community wide meetings before they come to us formally. And those were our two priorities, Pojoaque and Agua Fria, and we think that, our recommendation is that we cannot go forward with San Marcos to do a community plan at this time and we should approach it the same way we did Pojoaque. We asked Pojoaque to wait for a year and they graciously agreed to do that and we'd like San Marcos to wait for a year.

2179005

CHAIRMAN DURAN: What was their response when you explained that situation to them?

MR. KOLKMEYER: They wanted to proceed as quickly as possible, given the pressing issues they have with land use issues and the Pueblo. And that situation has become I would say probably pretty severe at this point with the water issues. But they waited and now they're ready to go.

CHAIRMAN DURAN: I meant in terms of the San Marcos organization.

MR. KOLKMEYER: They've asked to come forward to continue to come forward with their request today to ask for contemporary community status.

CHAIRMAN DURAN: What was their response to your statement that we didn't have staff available to do that?

MR. KOLKMEYER: One of their responses was that they said they would be happy to do a lot of work themselves. While we appreciate that, I don't think we want to be in a situation where everybody starts coming forward to do their plans. We've made that clear to everybody, and even the ordinance says that we shall be involved in the planning process and we'd like to do the plans in cooperation with the community, otherwise it sort of undermines the whole reason for doing community planning in general. When we go after a couple of years of working in these places, the comments that are always made to us is this is the most attention we've ever been paid to by the County. It helps us to understand County government. It helps us to be able to deal with land use issues and we think that we need to do it together.

Even if we went out and gave some of this work to consultants, just to do that takes us several months and lots of staff time to be able to prepare a professional services agreement. And we are of the same feeling. We'd like for them to wait until we can engage in this process with them next year.

CHAIRMAN DURAN: I have one last question. This person that's going to take Alina's place, will they be doing strictly community planning?

MR. KOLKMEYER: We hope so. I think I've seen one budgetary item that is calling them community planner/economic specialist, but I would hope that we could get as much—I don't know how that worked out. I haven't seen the final budgetary item but we need to engage them in community planning as much as possible.

CHAIRMAN DURAN: Could you answer that, Estevan?

MR. LOPEZ: Mr. Chairman, the position that was ultimately approved was designated as a community planner/economic development planner. So it was both.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: What would it take, Jack, to embark on community plans in more than Pojoaque and Agua Fria? What would it take to do San Marcos? We have one FTE that we're looking at in your work force. How many more do you need? My concern is that I think this is the best thing that has happened in Santa Fe County, community planning, self-determination, local government participation with communities in development

2179006

of those plans. I would sure hate to see communities get alienated in having to wait a year or two or three or four. I think the process is great. How many more people do you need? I'm sure that if you had 20, but what would be a realistic number to target for, to look at that would give us the ability to work with communities, more than three or four community plans?

MR. KOLKMEYER: Commissioner Trujillo, thank you. I think that's really a good question and I would have two answers for that in the case of San Marcos. One is, one planner just brings us back to where we were before as I had mentioned. And even taking on two additional community plans in Pojoaque and Agua Fria, really stretches us to the limit. If we had an additional community planner, we could probably take on two, I would say two additional community plans. One of the difficulties is, as we've even seen in the Community College District, once we do a plan it's not the end of things. It's in fact the beginning of a lot of other planning work and ordinance changes and the issues like water that have come up and economic development that have come up in the Community College District. Really then, we're the ones that have to come back and do a lot of that work.

So we don't always know what it will spin off. But I think two more full-time planners would bring us up to a situation where we could take on really what we see on the horizon.

The other thing is I think there's an option for San Marcos, and you bring up a good point; we don't want to alienate anybody. We don't want to close the door. And I think that there are some things that could happen in San Marcos that from how I understand how they've presented things to us could solve a lot of problems here. One thing is they've asked us to help them write a resource protection ordinance. And that was part of the open space and trails plan. And we've already begun that. We have a draft of that ordinance. That was one of the issues that they said was a real high priority for them, and we're working on that.

Secondly, some of the issues that have come up regarding land use and the development patterns in that area and commercial uses, we think could be solved through the rewrite of the County Land Use Code. The RFP has gone out and in fact proposals are due Friday. What I'd like to recommend to keep San Marcos engaged would be to have this group work with us on rewriting the Code. So that areas of concern, whether they're lot splits or location of commercial development could all be taken care of, or largely taken care of, by having them engage in rewriting the Code with us.

Things that could not be resolved by helping us rewrite the Code, then would probably be issues we would want to take up in doing a plan with them. By the time we get done with the Code and engaging them in that manner, that's a year from now. And I think that would be a solution. Another thing I see is issues that would develop with the opening of the Cerrillos Hills historic park are really going to have a major effect on this area. We've been engaged in dialogue. Won't the Community College District have a huge effect on the San Marcos area? Well, I would argue that the Community College District has had more benefit to the area than drawbacks. There were issues with water of course that we want to really carefully go over, but I think something that may be more important in terms of negative threats may be lots of people coming to the Cerrillos Hills historic park, for example, through the San Marcos area that's going to create traffic and other issues.

2179007

So I think if they would engage with us in working on a management plan for the Cerrillos Hills Park and work with us to help rewrite the County Code, I think that's a lot of work for the next year which I think would answer a lot of questions. And then by that time we would have worked with Agua Fria and Pojoaque for a year and we'd be able to work our new person into the process and probably be in a position to where we might be able to handle some initial planning aspects with them.

COMMISSIONER TRUJILLO: We lost two planners. We lost Alina and we lost Kenny, right?

MR. KOLKMEYER: Well, actually yes. Leslie was the first one to go. Then she took over most of the open space. That's correct, Commissioner.

COMMISSIONER TRUJILLO: So have we backfilled those positions? I know that we've got an open space person. And Leslie and Ken's positions, have those been filled?

MR. KOLKMEYER: We have not filled the position, the community planning position that Alina held.

COMMISSIONER TRUJILLO: So that's available. We can do that?

MR. KOLKMEYER: Yes. In July. But then we need more and more according to the question that you asked.

COMMISSIONER TRUJILLO: How about Kenny's position?

MR. KOLKMEYER: Kenny's position was filled by Robert Griego.

COMMISSIONER TRUJILLO: And he's not doing community planning.

MR. KOLKMEYER: Yes he is. He's doing very good community planning.

COMMISSIONER TRUJILLO: We were doing community planning in Cuarteles, Arroyo Seco, Sombrillo, those—I think Cuarteles and Sombrillo, they're doing the mutual domestic study now and they're not doing community planning any more, right?

MR. KOLKMEYER: Commissioner Trujillo, we consider that a really integral part of community planning because the water issues were really big issues for Cuarteles and Sombrillo both. So the way that's worked out is it really engaged them and that's kind of what I'm suggesting with San Marcos is once we saw what a real important problem was for that area, we were able to engage it more focused on water, which turned out to be really good. Now, we do have other issues with those two communities that we may need to come back to, traffic and some of the other issues that came up. Arroyo Seco, as you know, we're rounding the bend on that finally and that's turned out to be primarily a corridor study for the frontage roads in that area. But that's been three years, four years that we've now been working in Arroyo Seco.

Again, once we finish a project like Arroyo Seco, then we'll be able to go to additional meetings. Some of the time we want to focus from having worked in Cuarteles and Sombrillo and Arroyo Seco to be able to put some of our staff time into Pojoaque.

COMMISSIONER TRUJILLO: Can you realistically state that we'll be able to dedicate manpower to the San Marcos planning effort in a year?

MR. KOLKMEYER: Yes, sir. I think we would be able to at that point, say that we would be able to, the same way we're doing with Pojoaque and Agua Fria right now.

2179008

To embark on a community planning process with them at that time. But in the interim as I suggested, I think there's lots of other things that they can be working on.

CHAIRMAN DURAN: Katherine, don't go. I need you to answer this question I have. Estevan, is there any possibility of finding some non-recurring money? Perhaps we could find, rather than hire a full time employee, maybe there's a term employee we could hire that would help us get this process rolling. Meet with the community, find out what their concerns are. Then when we're ready to have a full time employee or one of our community planners actually work on it, at least we've gotten a lot of the legwork done prior to hitting it with a full time employee, having a full time community planner involved. Is that a possibility?

MR. LOPEZ: Mr. Chairman. I guess anything is a possibility. We're just beginning now, or we haven't even gotten into the budget year and getting to a balanced budget was clearly difficult this year due to all the concerns that we were trying to deal with. We ultimately were able to get there. But I would suggest that perhaps we delay or defer a decision on this issue until we've gotten a change to get into that budget year a little bit and get a chance to see how things are shaping up during that process.

CHAIRMAN DURAN: I guess a better question would be for you, Jack. Do you know what it would cost to hire a term employee to work on a part time basis with the San Marcos people? And actually maybe other communities that are coming forward with their community plan.

MR. KOLKMEYER: Mr. Chairman, off the top of my head, no. I'd have to look into that matter.

CHAIRMAN DURAN: Would you agree that \$10,000 would probably go a long way towards this effort?

MR. KOLKMEYER: How about \$20,000?

CHAIRMAN DURAN: Okay, that sound good. It's really a question more than—

MR. KOLKMEYER: Mr. Chairman, I don't know. I'd have to look into it. Again, it would depend on the kind of work that we would embark on. Another issue here too is, and in their information to you they mentioned GIS and apparently TPL has offered to help them in dealing with some of the GIS information but TPL has to get that information from us. They have to get it from Erle Wright and Agnes Lopez and that's not easy coming either. They have staffing issues too. So there are things, if it's mapping, then we have to figure out exactly where all that comes from and where the staff time would come from and that's not easy. We find when we do the mapping there's always parcel layer problems and it's really a difficult thing to answer. We just can't do mapping in a week and think that it's going to be correct, for example.

So I don't know how far—what we could do with a term position, exactly what we would work on and how we would cost that out. I'd have to do some research on that.

CHAIRMAN DURAN: Well, it's something to think about. You can go ahead and finish your presentation, Jack.

MR. KOLKMEYER: I've made my presentation. I think with the questions

we've been able to answer everything. Oh, I wanted to make one other point if I may, and that is again, in this area as Commissioner Gonzales pointed out at one time, we have five major planning efforts that we've done in the San Marcos area: the Highway Corridor Plan, the Community College District, the Simpson Ranch plan, the US 295 Corridor Plan, the La Cienega community plan and in Pojoaque we've really done nothing. We have a plan going on in Arroyo Seco but there's really an imbalance in the amount of planning that we've been able to do north of Tesuque.

And again, relative to Agua Fria, I think we need to bear in mind that we've been talking about planning with them for ten years, not just a year. But with the advent of the annexation strategy being discussed at the Regional Planning Authority, the Southwest Area Plan, and the Regional Planning Authority land use plan, there's a lot of pressure that's come to bear on really needing to focus on some of the community planning issues in Agua Fria. Hence the reason we think those two are important for us to be engaged in at the moment. That concludes my presentation. I know Mr. Nazor also wanted to address the Board.

CHAIRMAN DURAN: Are there any other questions of Jack? Thank you, Jack. Is there anyone out there that would like to address the Commission? Please step forward, state your name for the record.

HUGH NAZOR: My name is Hugh Nazor, San Marcos Association. I live on 263 Camino los Abuelos. I hope you gentlemen haven't found it difficult to keep your minds open to this point, after all, the agenda item did say an application from the San Marcos district and I hope you listen to it and consider it first before you weigh the evidence that you have already asked for from Mr. Kolkmeier.[Exhibit 1]

To set the record straight, in one way, Commissioner Campos asked if it was a decision to take this to the end of the summer, the answer to that question is in the minutes of the March 12th meeting, page 2120478 and 9 where it was suggested that we go to the CDRC in April and before you in May. This was delayed a month at my suggestion because that was rushing planning and I did not want to rush planning. To refresh your memory of that March meeting and extracting items that Commissioner Gonzales said, "A commitment has been made during the community planning process that we're going to allow this." He's speaking to Jack Kolkmeier and this is new community planning districts being recognized. "During the process, we never said we never we ready for you. We said we want to engage in community planning. So I know we can't solve this right now but I also know it's unfair to communities that they're prepared to come forward. They've got the energy and the excitement, and then to say, We just can't do anything for you now so you're going to have to wait."

I move forward two paragraphs. "We just need to figure out how we allow communities to come forward and try to fulfill our promise. I know it wasn't your promise; (again, he's speaking to Mr. Kolkmeier) it was something I feel personally committed to because Mr. Nazor is my constituent and it's something I said to him and everyone else out there, you do your part and we'll do ours. You commit to the time, you commit to bringing your community together, you commit to a long planning process, we'll do our part to provide the resources."

2179010

Now, I do want to point out that in the packet before you, which I think most of you have had for at least over the weekend, there is a planning committee of 21 people, four of whom are professional planners. They're academically trained professional planners who have taught planning in college and who have planned for years, such as Richard Crombie who's here tonight, in this state and other states. We are not the usual planning committee coming before you needing excessive help. I did suggest in the pages you have in front of you, as Jack Kolkmeier has just said, that it might be beneficial to the County and to the Trust for Public Land if there was some sharing of databases in the GIS. However, it is by no means necessary for the TPL to do all of our GIS work. If you don't want to share databases, fine. They already have the capability to do everything we need and they have been doing so already. Some of the work presented to some of you informally in the recent past has been theirs.

We've been waiting a year and a half. We started this in December of the year 2000. This planning committee as it is now, will not be available a year from now. But we're not asking to do this in the next year. We're just asking to get started. As Mr. Kolkmeier just said, this is a three or four-year process potentially. We're asking to get started. A year from now, if he has the capability of coming on more to help us more, fine. We want to take the very first steps.

CHAIRMAN DURAN: Mr. Nazor, could I ask you just one question?

MR. NAZOR: Absolutely.

CHAIRMAN DURAN: I think that part of—this community planning process requires that the County staff participates in the meetings that you have in your community, for the discussion and is involved from day number one. So I know you want to start right now, but I don't know how—how would you suggest based on what you've heard tonight, based on the staffing issues that we have, how can you begin this process now without fulfilling the requirements that we've laid out for this process?

MR. NAZOR: First, Mr. Chairman, let me correct you in one way. The planning ordinance requires that, and I quote, "Planning staff will work with the planning committee to reach an agreement on the planning process and the basic guidelines for decision making that shall be followed throughout the process."

CHAIRMAN DURAN: And how can they do that without attending meetings?

MR. NAZOR: They will make an agreement with us about how we will work and how we will go forward. This takes how many hours? Not very many.

CHAIRMAN DURAN: No, but that involves going to the meetings.

MR. NAZOR: It doesn't say here they have to be at all the meetings. It says nowhere they have to be at all the meetings. And we could, for a number of months, do surveys of the public, partly through mailings, mostly I would hope through the Internet. We have now a very large Internet list. We have regular mailings to 1700 households in our area. We have served this area for 25 years. This is a well-connected community. Very well established. There's the kind of involvement that we've typically had, and we're not trying to run away from them. We're not trying to run in front of them or keep them out. But there are a lot of things that can go on up front in which very few decisions are being made while

2179011

information is being gathered.

And we're not asking—usually they're at meetings in part because they provide space. They provide meeting facilitation. We have three meeting facilitators on our committee. Professionals. International professionals. People who get \$3,000 a day to do this.

CHAIRMAN DURAN: I'm sure that your intentions are more than honorable, but the fact of the matter is that the process requires that the County is there to make sure that the process is done properly. And I don't know how we go about doing that with the staffing issues that we have.

MR. NAZOR: If you insist that that is the way things have to go, that's largely the question here tonight. It says that nowhere in the ordinances or in the general Code.

CHAIRMAN DURAN: There are property rights out there, in my opinion that need to be protected and we had a community plan that took place up in Cañada de los Alamos. And it was an honorable effort and there were some people's interests that weren't addressed and I'm not sure that we even had staff—did we really have staff involved in that process from day number one? Jack, that you know of? You can just say yes or no.

MR. KOLKMEYER: Mr. Chairman, we had some but the thrust of that plan was done by hiring a consultant to do the work. And I just want to correct something that Mr. Nazor said is that the County planning ordinance in fact, 4.1, 4.5.1, says the County planning staff shall assist in the planning process. And if surveys and things are to be done, we want to be involved in it.

CHAIRMAN DURAN: Thank you.

COMMISSIONER TRUJILLO: If I remember correctly, I think Tesuque started working on their community plan not with the County, prior to starting working with the County on the community plan, they established Las Tres Villas. They put together a lot of demographics regarding community planning. They identified boundaries for the community planning area. They talked about where commercial development would be situated, protection of the traditional qualities of the community. They talked about all of that prior to giving impetus to a relationship with Santa Fe County on an actual community plan. At that time, when they had all their information together, they sat down with Santa Fe County and assimilated the information so that it's congruent with the ordinances and the rules and regulations, whatever needs to take place.

They started meeting three years prior to starting the relationship with Santa Fe County. And I think that can happen. That can happen because they need to decide within the community what they want, what the land use issues are, where they want commercial development, the whole gamut of quality of life issues. They need to decide that before they start the process. So I don't see any problem.

MR. NAZOR: Thank you, Commissioner Trujillo. Just a couple other things. It also says in the plan, in the ordinance that the County recognizes that communities have limited resources and need to solve problems in a timely and efficient manner. This community planning process is designed to allow individual communities to work at their own pace within their own resources. This is what we've asking for a year and a half to do. We were asked to

2179012

wait a year. We waited a year. We've waited a year and a half. We don't want to run and do this thing in 18 months. I just so want to make it clear that I do appreciate Mr. Sullivan's position. You may or may not remember that I've come before you twice to ask for additional planners with at least temporary success when you were going to have two more planners but then have used the money elsewhere.

I have no intention of not cooperating with Jack. We do have the ability to make the load for them lighter than they can now imagine. I do appreciate his point about allowing us to help rewrite the Code. I have offered to do that. I read law for two years at the University of Pennsylvania when I was getting an MBA at Wharton. I have written land use codes for communities in the East. I have some experience in this as do other members of our organization. I'm on the Cerrillos Hills Park Coalition Board. My wife was one of the founding members. We're well aware of the need for management planning there. I have a meeting on the 20th, 9:00 in the morning to meet with your County open space personnel about that very issue. This does not in any way keep us from doing the planning.

We're very well aware of all these issues and we do intend to help in every way we can. I can't keep this committee energized and together and active for even another year. Regardless of what Mr. Kolkmeier has just said, and I know there's more likely to be help available in a year than there is now, there's no guarantee that it won't be another year and a half or two years. I'll answer any questions.

CHAIRMAN DURAN: Well, Mr. Nazor, I think that what we should do, this is obviously my opinion, is to approve your request to be considered a contemporary community status, to receive contemporary community status with the understanding that staff participation and the County process will not begin until we have staff available to do that.

MR. NAZOR: Fully understood, sir. With, I would suggest maybe the one amendment in that the language I read about their initial involvement in telling the committee formally how they would like this done, they should have the chance to do because there is very minimal time there. There are seven members of this 21 member committee who have been involved in from one to four other County planning operations and are fairly familiar with how he wants it done. Nonetheless, that's the one thing I would add. At our first meeting all together, I would wish to give them the opportunity to come.

CHAIRMAN DURAN: I guess what I'm saying is I'm not—if a group of you, residents of the area, want to get together and work on this plan, I think that's fine. I think that when the County has the resources available to work with your group then they involve the community as the Code requires us to.

MR. NAZOR: Yes, sir. And if that's your finding, I would appreciate and we certainly will not move at a pace that will cause the County planning staff problems.

CHAIRMAN DURAN: Is that a problem?

COMMISSIONER TRUJILLO: No problem.

CHAIRMAN DURAN: Even if we didn't do that, what would prevent you from doing it anyway?

MR. NAZOR: A number of things, sir. It says 1000 Friends is offering to be

2179013

our sponsoring organization to look for grants. We're going to do nothing until September or October except hopefully looking for grants. We might even be able to find a grant, even though it's a very hard one to get, to supplement County staff. We certainly hope to. We hope to get people doing some of the survey work, current use, opinion and so on, from the University of New Mexico, the planning fellowship people.

We can't do that without formal recognition from the County. We have no status to seek a grant. We have no status to talk to the University, etc. We do need the stature of acceptance before we can go forward even for those minor steps.

CHAIRMAN DURAN: I think we should recognize them and give them their approval. I agree with you. There's a lot going on in your area that even before you come up with your plan you might be able to address in your committee that when it comes forward for approval or review, that you're kind of a step ahead of it and you can come forward and make recommendations on those proposed projects based on your committee's work to date.

COMMISSIONER TRUJILLO: Mr. Chairman, that is the essence of community planning is to incubate the thought process within the community, and then bring it to the County and coalesce it with all the regulations and ordinances and whatever we have in place. The general plan if you will. But that process can start off separately if we designate San Marcos as a contemporary community and converge later on in a year, year and a half, whenever. But it can start and it's that much ahead when it assimilates with the County regulations.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think, following up with what Commissioner Trujillo said, we do have a lot of energy and initiative here and we're trying to see how to capture that. And I think what you're saying Commissioner and Mr. Chairman is true that there are things that they can be doing and should be doing. I'd like to see them move forward. When you look at the map they handed out there's a big void there that we're having trouble in North Fork. We're having trouble in South Fork. We're having trouble in Cerrillos. Madrid's already done a plan. So I think that we'd like to capture that enthusiasm and let them move forward. So I'd be in favor of them doing it.

I'd like to add a caveat, and that is, and it's the way our own ordinance is written on this, which is kind of backward. We ask them to come forward with the committee and we ask them to come forward with boundaries. What we found out in the Eldorado plan, which later became the Simpson Ranch plan, was, number one, there were questions about the committee. It wasn't representative of the area. There was a left side of the road and a right side of the road. And number two, there were big questions about the boundary of it. What do we include in the boundary? Who wants to be included? Who doesn't want to be included? Who should be included? Who shouldn't be included?

So we were asked to come and approve a committee and a boundary and really the first steps that the community needs to take is to determine the committee and the boundary. So it's a catch-22. I think eventually that got worked out pretty well in Simpson Ranch. And we

2179014

brought in the people who thought that another group was having all of the sway and all of the decision making and felt somewhat suspect of those who started the process. We eventually wrapped that in. That took staff effort to do that, because the staff kind of acted as the arbiter in doing that and getting them to that point of agreement as to what would the boundary be, who would the chairman of the committee be and the "we's" and the "they's."

Now, I don't know that there's all the similar issues here, but I would just say that if we move forward, I would ask that they come back fairly soon to us, through the planning staff with a report on the inclusion of the committee and the boundary issues. Because those things come up right away. Someone thinks that there's an agenda. Someone has concerns. So that while we approve that, while we're approving a boundary and we're approving a committee, it would be an interim approval of a boundary and a committee. I think there's always a final approval of the boundary anyway.

MR. NAZOR: May I very briefly address that? One, I will welcome any scrutiny about the representation of the planning committee. There are representatives from all over the district, plus a representative from people outside the district as is encouraged here from both the Thornton Range and from the Rancho Viejo Partners. In working with Mr. Kolkmeier and others on the planning staff, we originally had a larger area, more like the area that we had traditionally served. Various parts of this area, Richard Montoya, Sr.'s area down here and the Peplers' area over here, there was less than enthusiastic response from those people about being included at this time.

We excluded them. Planning staff had some feelings about how close we were to Cerrillos. We went with their recommendation. So these boundaries have been adjusted to meet common desires here. We understand by the ordinance that boundaries are not permanent until the final plan is accepted and we're willing to have the boundaries be flexible for any needed reason. And as I say, we're willing to have whatever scrutiny of the planning committee.

CHAIRMAN DURAN: Would your group consider pulling in both those properties? The Pepler and the Montoya property?

MR. NAZOR: Should Dickie come forward at some point, should Mr. Montoya come forward at some point and say that he likes what he's seeing and he wants in, absolutely. It would be a lot more work. We typically do recommend everything that we do represent, all the people up the Goldmine Road area. We led the fight to have the Goldmine reclamation effort that's now going on. Started, the only feedback we got from this mailing which was given to you just to prove that we did advertise this to the entire district, was disappointment from people up Goldmine Road, to whom we still mail, that they were not going to be included.

We do have some interest in the future of County Road 57, Waldo Road, for which there is currently 164 acre-feet of water transfer request on the State Engineer's desk. But the owner up there is not interested and we don't want to work with an owner who's not interested. We're talking about almost 40,000 acres here; 15,000 acres of it is the Bonanza Creek Ranch which is owned by one individual, Richard Hughes. He's very interested in working with us. He cares about maintaining the potential development value of his ranch but he also cares about

the greater community and he's very eager to be a part of this. His property is the single most important piece of property to the future of the entire San Marcos district.

And we are eager to get started while everybody's feeling this way. A year from now, a year and a half from now, this unmarried man with no children and tremendous community spirit may be feeling differently. We would like to get moving.

CHAIRMAN DURAN: I need to ask you just one question, if you don't mind. And maybe you can just give me the short version. There's a lot of mining that has taken place in that particular area. What's the organization's viewpoint on continued mining in that area?

MR. NAZOR: Well, it's a historic mining district, and the kind of mining that has historically taken place and that is taking place in some of the Turquoise Hills north of County Road 45 is objectionable to no one. The kind of hard-rock mining with explosive discharge to get bentonite out of the hills and then the running of rock crushers and many trucks that gets around the hard-rock mining laws by saying it's doing gravel mining has been objectionable to the people in the Village of Cerrillos. Two Commissioners have come forward and said would you in this, when we were looking at a greater plan, consider a mining district?

CHAIRMAN DURAN: Right. That's what I was going to ask.

MR. NAZOR: And frankly, the mining district, where most of the good mining materials were and the interest of the owner and the miners were in continuing to do this was in the Pepler area. And there seems to be quite a positive possibility of getting a mining district. But when Patty decided she was nervous about this and wanted to explore things on her own for a while we lost the area that is of obvious mutual interest to landowner and miner together. I can't say there's no place on here for that. We haven't really gone that far yet.

CHAIRMAN DURAN: Okay. Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman, I'd like the input of a very important player in this scenario. Jack, what do you think about that, that they start their discussions within the community, put the data together and stuff, and then make the recommendation for the County in a year, year and a half?

MR. KOLKMEYER: Mr. Chairman, Commissioner Trujillo, I'd be very disturbed by this, quite frankly and I'll tell you why. Because we spent considerable time talking about how we can prioritize things with staff. Staff's recommendation to you was Pojoaque, Agua Fria, San Marcos. If you approve this today in this manner, you put the third priority in front of the other two and we haven't even yet approved Pojoaque and Agua Fria. And personally and professionally, I think that sends a very, very bad message to those two communities. And I think we need to weigh that very heavily. Because if we do it this way, despite what Mr. Nazor says, we're going to be hard-pressed to give them time.

And that's going to interfere then with our ability to service Pojoaque and Agua Fria. Secondly, to a point that Commissioner Sullivan raised, regarding the boundaries and the representation issues, for the Simpson Ranch area, that became very, very complicated. And the resolution to that it was decided, at a BCC meeting, that we would do a series of major community meetings with them to make sure that we understood that everybody felt that they would be represented by creating a contemporary community district and moving forward.

2179016

Despite again what Mr. Nazor says, I have not been to one major community area meeting out there for an area that's larger than the Community College District.

I think you need to hold them to the same standards that we did Simpson Ranch. Have them do two major community meetings, so that not just their committee but anybody who wants to attend from that area has the opportunity. Hold them at the Turquoise Trail School. That's what we did at Simpson Ranch and as the result of that there was a lot of good discussion and changes in the boundary. People who came forward who had objections to certain things about representation or who had issues with the boundary. But I think if we do it this way, as it was suggested, I think we're putting the cart way before the horse and we're not doing it the way we did Simpson Ranch and we're not being fair to Pojoaque and Agua Fria when we've already told them that we want to honor their commitment. I hold to what I said earlier.

What I would like to do, and be willing to do with them is to work with them on issues in Cerrillos Hills, and invite them to engage us so that we can find out what issues can be resolved by the Code rewrite. I think if we do that, then we'd be in a position—who knows? Maybe three months, maybe six months from now, to really have a better feeling for what it would take to embark on a community plan. Why do you want to do a community plan? What do you want to solve? When they've told us issues of open space, we said we would do the ordinance with the open space. We've embarked on that. What issues need to be solved? If there are issues of development patterns, maybe some of those can be resolved through working on the Code.

But as I said before, we do not have the staff to work with three communities. And if you do that now, we're going to be engaged in work. So if we have to talk about the priorities again, one, Pojoaque, two Agua Fria, three, San Marcos. And if we have to do that again today, then let's do it. But that's the issue that we're faced with.

CHAIRMAN DURAN: I'd like to make a motion that we deny this request for San Marcos to be granted contemporary community status with the understanding that the only reason I'm making this motion is because of staff commitment. The other part of the motion would be that they would be placed third after Pojoaque and Agua Fria. They would be third on the priority list and we would begin that process as soon as staff is available to work on it. And I would encourage your move to do as much work as you possibly can or that you want to commit to in developing this community plan and when we take it on, you'll be way ahead of the curve.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: I'd like to second that and I would simply state that I find Mr. Kolkmeier's position very compelling. We have a lot of interest in this community in the County. We can't take care of all of them. We have limited resources, and I think by doing what you're requesting we would be impairing our efforts with Agua Fria and Pojoaque, which are in critical condition.

The other thing is that I don't think you've gotten to the position here, as Mr.

2179017

Kolkmeier has pointed out, you haven't had the community-wide meetings to really know if there is certain issues that the community wants. Third, I think it's probably too big of a planning area. I think areas of this size should be addressed by the Land Use Code, not by a contemporary community plan. So I do second it.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER TRUJILLO: Is there any way that we can—I'd hate to see the enthusiasm and the dedication and commitment stifled in the community as a result of this action. I'd like to see if there's any way that we could help the community tap into some resources, some finances to help them internally with their planning process. Maybe not designate them as a contemporary community, but do something to attract resources to help them put together the information that they need so when we're ready and we have the staff, they have it available. Is there any way that—

CHAIRMAN DURAN: But Mr. Nator said that they didn't need it. They had enough.

COMMISSIONER TRUJILLO: Well, no. He's looking into tapping into some outside resources, funding, and he can't get that funding without being designated as a contemporary community.

COMMISSIONER CAMPOS: Mr. Chairman, we do have a motion and a second. This other could be considered subsequently.

COMMISSIONER TRUJILLO: Can I include that as part of the motion?

CHAIRMAN DURAN: What would that be?

COMMISSIONER CAMPOS: I don't know what that means. It's kind of vague.

COMMISSIONER TRUJILLO: Direct staff to look for ways to help the community attract or tap into outside resources to help them put together the appropriate documents that they need to do the community plan.

COMMISSIONER CAMPOS: I would ask Mr. Kolkmeier to comment on that. I'm not sure. It's pretty broad.

COMMISSIONER TRUJILLO: They're in a position now where they're buoyant, they're dynamic, they're enthusiastic. They're ready to embark on this community plan. If they don't have the resources it stops there and they're dormant. I would hate to see that happen.

MR. KOLKMEYER: Mr. Chairman, Commissioner Trujillo, again it would depend on what the work items would be, to go back to your example of Tesuque before and the way that it's pretty much outlined in the ordinance right now, two of the things that we embark on initially are an existing condition study, a land use study that's done on maps, and a community survey. And it's possible, Tesuque got funding, as you know, for the land use portion of that, funding for the survey in Simpson Ranch is coming from our own budget, and I assume there would be ways, there's lots of groups around who can help. McCune helped us with Tesuque and we can possibly do that but I still think that we should focus on what the issues are relative to the Code that could be solved by the Code rewrite because as I said, we

can engage them immediately. This committee can work with us immediately, starting Friday, when we review the RFPs and go forward with the land use Code so we can find out what land use issues there are. I would rather do that first because I think then that helps us to clarify what they issues are that we would be working on. But we can help them look for a source of money and the County can apply to those places for funding.

I'm not exactly sure how to answer your question.

CHAIRMAN DURAN: I think that if we made the commitment to Mr. Nazor's organization that if you found funding out there to strengthen your efforts and you needed something from the County that we could give you a letter that would basically say we are in support of your efforts to have this contemporary community status and as soon as staff is available we will approve that and begin the process.

COMMISSIONER TRUJILLO: I think that's good.

COMMISSIONER SULLIVAN: Mr. Chairman, could you say that again? I'm not sure—

CHAIRMAN DURAN: I guess rather than amend the motion—we're in the middle of a motion, Mr. Nazor. I'm trying to—rather than amend the motion we're just basically saying that we are behind this effort and we will assist Mr. Nazor's organization in their efforts to find funding to support their effort.

COMMISSIONER CAMPOS: I think their effort and County effort.

COMMISSIONER SULLIVAN: Let me make another suggestion here. The problem is, first of all I think Trust for Public Land, they might be able to give some good back-up because one of the County planning staff that left Santa Fe County went to work for Trust for Public Land.

CHAIRMAN DURAN: She's why we're in this now.

COMMISSIONER SULLIVAN: She's why we're in this mess. Let's blame her. So I think TPL is a good organization to help them out. To get, there was a discussion about some possible temp staff personnel and I know from being at the meeting and reading the minutes that Commissioner Gonzales was very supportive of trying to get this going and so was Commissioner Trujillo and so am I. I'm willing to work with and negotiate with Commissioner Gonzales to use some of the discretionary funds that we have in our somewhat reduced pile this year. Katherine reduced our discretionary funds on us by about a third. So we don't have what we had previously.

But if we could—and I'm certainly willing to do that and chip in to get something up to the \$20,000 that Jack mentioned. We do need some oversight. I don't think they can go out totally on their own because there needs to be that mentoring and guidance and oversight. But on the other hand, as Commissioner Trujillo says, I don't want to lose this initiative. I don't want to lose this. So what we're trying to do is we're trying to get not more hired guns, because staff is saying we need people on the planning staff to have oversight and participation and guidance in this. Not consultants is what I'm hearing him say.

So if that helps us to bring someone on board immediately. Now that person may only be needed for six months, eight months, a year, let's say. Until planning staff catches up. But

in the meantime, we've got that moving forward. Now, maybe the grant money might come on and supplement that and maybe it wouldn't be we really have to make a commitment right away to do that. So I'd be willing to do that and Mr. Chairman, if you're willing to chip in, that might provide some money.

CHAIRMAN DURAN: Let's here what Mr. Nazor has to say.

MR. NAZOR: I just want to simplify this and say I've served elected office on similar boards. I can count votes and there's no need to ameliorate this. The committee goes forward or it doesn't. In the meantime, I accept Jack's offer to work with him on the Code and that will be beneficial. And as such, as Jack has the staff, we can have a meeting or two out there if you want, although we're in touch with that community like no other committee has been with any community you've planned with yet.

But if you want us to have meetings, we'll have meetings. But to try and carry things forward without the recognition is unrealistic. We'll see what's available when the staff's available. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman, if we could move it forward so they have their official recognition in order to get funding and grants by making it contingent upon our being able to come up, amongst ourselves, with \$20,000 to provide—not put it on the County Manager, put it on ourselves to come up with \$20,000 to provide the temporary staff support to fill in the gap until such time as they can catch up. Does that work, Mr. Kolkmeier?

MR. KOLKMEYER: Commissioner Sullivan, I think that probably comes a little closer. And if I can kind of restate maybe what I'm hearing you say. That if you grant them contemporary community status only, but not recognizing boundaries or the committee, then if that's satisfactory then we can move in the direction that they move in. What scares us is again, by approving those other steps, that approves everything that really sanctions them to go forward. And I think correctly, as I said when I started in the Growth Management Plan, we do already suggest that San Marcos is a contemporary community area.

CHAIRMAN DURAN: Jack, this \$20,000, we can't vote on this \$20,000 tonight. So all we can do is disapprove it based on the last comments you made, and if we come up with \$20,000, at the next meeting or whenever we discuss this discretionary money, we can allocate it to this effort and we can then bring this thing forward so that we can designate it a contemporary community, because we've allocated \$20,000 to do it.

MR. KOLKMEYER: Mr. Chairman, that would be our preference. Otherwise it just goes in too many different directions which we can't chart.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd just suggest reversing the motion and putting a positive spin on it rather than a negative spin and approving the contemporary community status without at this time approving the boundaries or the make-up of the committee, but acknowledging then that that's the starting point, contingent upon our ability to allocate the sum of \$20,000 on a temporary basis to the effort. If that doesn't work, then they haven't been approved.

CHAIRMAN DURAN: How about subject to funding and/or staffing.

COMMISSIONER SULLIVAN: Well, that's what the \$20,000 for.

2179020

CHAIRMAN DURAN: But rather say funding and staffing.

COMMISSIONER SULLIVAN: Funding or staffing, yes. That's fine.

COMMISSIONER TRUJILLO: Funding or staffing.

COMMISSIONER SULLIVAN: Whatever words you like. I think if we do the recognition, if we make a commitment to find the funding, rather than putting it on the County Manager who has indicated that he's already got issues. He's got issues of dealing with the union that haven't been resolved. That we just bite the bullet ourselves and make that commitment, understanding we can't do it legally until the next meeting but with that understanding.

CHAIRMAN DURAN: Let's hear Mr. Nazor.

MR. NAZOR: One very small point. It's virtually a legal point within the ordinance. I see it as impossible to recognize the district, the community, without saying what the district is. Any approval of the boundaries is by law, in the ordinance, temporary. You may change it at any time for any reason. But you can't say, yes, this is a community and then not define where the community is. And we can't do anything until you've recognized the planning committee, which is fine with me. But please, if you recognize our right to plan, say what it is we have a right to plan, even though we can't plan it because you're not recognizing the committee.

I see where Jack's going. Don't recognize the committee and we don't have the authority to do anything and that's fine. It shows your intention without giving us the authority to do anything, which is good. It's one step. But without recognition of the even temporary boundaries, and they are by definition temporary until the final vote when the plan's in, it's meaningless.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Yes.

COMMISSIONER CAMPOS: I think Mr. Nazor's correct. We are proceeding in reverse order so I think the motion that we have we should vote on.

CHAIRMAN DURAN: So you're calling for the question.

COMMISSIONER CAMPOS: I think you should.

COMMISSIONER TRUJILLO: Would you repeat the motion?

CHAIRMAN DURAN: Thanks. The motion is to deny the request for San Marcos to be considered contemporary community status, to achieve contemporary community status, and to create the contemporary community planning boundary and the creation of a contemporary community committee, with the understanding that when we have staffing to undertake this planning process that this matter will be brought forward for approval.

COMMISSIONER CAMPOS: Mr. Chairman, I think the motion was recognition that they're third in line after—

CHAIRMAN DURAN: And that they're third in line.

COMMISSIONER CAMPOS: Is that right?

CHAIRMAN DURAN: Any further discussion?

2179021

The motion to deny San Marcos contemporary community status passed by majority [3-1] voice vote with Commissioner Sullivan voting against.

X. B. 2. Request authorization to publish title and general summary of an ordinance addressing water conservation for all sources and uses of water within Santa Fe County

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioners, this is the ordinance that we discussed at the last meeting that addresses water conservation for all users and for all sources of water throughout Santa Fe County. I would like to emphasize that agricultural uses are exempted from the entire water conservation plan. I don't feel we have the ability to address that right now. What the ordinance addresses though is outdoor conservation, indoor, public outreach and education, the domestic well metering program is authorized and outlined throughout this. The drought emergency provisions for the County, water waste and fugitive water, and finally, the enforcement and penalties. And I think it should be included in your packet. If you don't have it please let me know.

CHAIRMAN DURAN: Katherine, I talked to you earlier in the week that this would be the ordinance that we could use relative to water conservation issues within the building code.

MS. YUHAS: Mr. Chairman, specific issues with the building code are not addressed here because we felt the Code rewrite might be the best place to put those. But if you'd like me to include some of that in this I can also do that.

CHAIRMAN DURAN: No, that's fine. I just want to make sure that the Commission is aware that we're trying to make some progress in that effort. Any questions of Katherine? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second.

The motion to approve publishing title and general summary passed by unanimous [4-0] voice vote.

2179022

- X. B. 3. Request authorization to publish title and general summary of an amendment to Article SV, Santa Fe Community College District Ordinance of the Land Development Code, Ordinance 1996-10, Section 5, Land Use and Zoning Regulation, and Section 6, Design and Development Standards for the purpose of developing a comprehensive water resource management plan requiring utilization of Santa Fe County water utility**

MR. ABEYTA: Thank you, Mr. Chairman. Staff requests that the BCC grant authorization to publish title and general summary of this ordinance amendment that would affect developments within the Community College District. A draft ordinance will be prepared within the next 30 to 60 days and then scheduled for the Community College District Development Review Committee and then the Board of County Commissioners and ultimately approve.

COMMISSIONER SULLIVAN: Move for approval to request authorization to publish title and general summary, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second for discussion. This is a two-hearing?

MR. ABEYTA: Mr. Chairman, this is just authorization and it would require two public hearings before the BCC and prior to coming to the Board it would have to go to the Community College District Development Review Committee. Also, we would bring forward, if authorized today, we would also ask the EZA at the end of the month, to authorize a similar amendment for the portion of the Community College District that's within the Two-mile. And that would go EZC and then EZA.

CHAIRMAN DURAN: Okay, good. Any further discussion?

The motion to approve publishing title and general summary passed by unanimous [3-0] voice vote. [Commissioner Trujillo was not present for this action.]

X. C. Matters from the County Manager

MR. LOPEZ: Mr. Chairman, I've got two items that I'd like to bring to your attention, but before that it might be useful to mention the items on the agenda that have been tabled. Most of them are noted on the agenda itself in the Public Hearings where they're tabled but for anyone that wasn't here when the agenda was approved, the Public Hearing item number 3, the Sonterra master plan was tabled. Also the Bryan and Karen George variance, item number 4 was tabled, and item number 5, the Eleanor Gonzales variance was withdrawn. The two items, Mr. Chairman, Commissioners, the two items that I wanted to discuss with you, first, I wanted to give you an update on our negotiations with the Sheriff's union, the

2179023

CWA Union. Helen is passing out a memo and an attachment relative to that. We resumed negotiations yesterday and we submitted an offer to the CWA Union and that offer was subsequently turned down. Our offer was intended to address a number of issues, a number of concerns that have been brought up by the union, including disparities within positions, years of services, and disparities with the City of Santa Fe salaries.

We also included incentive pay to reward those deputies whose performance exceeds expectations as well as recruiting incentives to attract qualified candidates. The average increase in this offer was 12 percent for the first year and then subsequent years an across the board increase of 4 percent. We've included with that memo a summary of the proposal that was made yesterday. But as I've stated, this offer was turned down and we currently are at impasse so the next step is mediation.

I provide this simply for your information.

COMMISSIONER SULLIVAN: Any questions of Estevan?

COMMISSIONER TRUJILLO: And the issue of financial constraints. Do they understand where we're at with that?

MR. LOPEZ: I understand from our negotiation team that that was made abundantly clear and that we basically had offered pretty much everything that we could.

COMMISSIONER TRUJILLO: This seems like a pretty good package.

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, I feel like we've made a very good faith effort at trying to bridge that gap. And it's a substantial increase over the position we were currently at, or previously at, excuse me.

COMMISSIONER TRUJILLO: Thank you, Estevan.

COMMISSIONER SULLIVAN: Estevan, without getting specifically into details, how close does this come on the average to getting the Sheriff's Department comparable with the Santa Fe Police Department?

MR. LOPEZ: Mr. Chairman, that's not a very easy question to answer because the disparity between the Sheriff's Department salaries and the City of Santa Fe salaries vary, depending on the position and also on the longevity of the individuals. However, the offer that we did make took those two issues into account and we don't quite bridge that gap but on the lower levels we come very close. On the upper levels we've still got some work to do.

COMMISSIONER SULLIVAN: So on the lower levels, which was the area we wanted to concentrate specifically on so that we kept people who were being trained and were unfortunately turning over to other opportunities, we're now fairly close, based on this offer.

MR. LOPEZ: Mr. Chairman, had this offer been accepted, yes. We would be getting very close to a parity.

COMMISSIONER SULLIVAN: I understand. I understand.

COMMISSIONER TRUJILLO: I guess we need to understand that parity is achieved over the long term, not in one fell swoop.

MR. LOPEZ: Mr. Chairman, that is correct. We worked within the budgetary constraints we have right now and made our best effort. Hopefully, we'll be able to resolve this issue once we go into mediation.

COMMISSIONER TRUJILLO: With this packet the gap is getting closer?

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, this offer would substantially close that gap. If there are no further questions, the only final issue that I wanted to bring to the Commission's attention, previously, I've alerted some of you that the City of Santa Fe had scheduled a summit on affordable housing for June 22nd. Since I shared that information with you I've been alerted by the City that that summit has been postponed. The final date for that hasn't yet been set but they're talking probably some time in August. As soon as we've got some concrete dates we'll give you that information.

Mr. Chairman, that's all of the Matters from the County Manager.

CHAIRMAN DURAN: Do you think we could revamp entirely the affordable housing effort here in the county. We've adopted affordable housing ordinances. We've required development to provide affordable housing and nobody's doing it. They're no incentive to provide affordable housing. And as we move forward on this thing, this effort, it becomes more and more restrictive to those individuals that might be required to provide affordable housing and the tougher we get on this the less of a product. No one wants to produce it.

I think there's some real problems with that. We've also taken away, in our affordable housing ordinances we've taken away the ability for people to take advantage of the profit that's available to them if they live in a house for two years, which I think is part of the American dream. I'm just pontificating here. I just think we should really revamp that whole affordable housing ordinance and I'll try and put together some more concrete ideas as we move forward. Okay. Thanks for listening to me.

COMMISSIONER SULLIVAN: Come again. Your three minutes are up.

X. D. Matters from the County Attorney

1. Executive session

- a. Pending or threatened litigation**
- b. Discussion of the purchase, acquisition, or disposal of real property or water rights**

CHAIRMAN DURAN: Steve, we have things we need to talk about?

MR. KOPELMAN: Mr. Chairman, members of the Commission, we have two brief items that we do need to discuss with the Commission.

Commissioner Trujillo moved to go into executive session pursuant to NMSA Section 10-15-1 (7 and 8) to discuss the matters delineated above. Commissioner Sullivan seconded the motion which passed upon unanimous roll call vote with Chairman Duran and Commissioners Campos, Trujillo, and Sullivan all voting in the affirmative.

2179025

[The Commission met in executive session from 5:50 to 6:35.]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Trujillo seconded. The motion passed by unanimous voice vote.

XI. Public Hearings:

A. Land Use Department

- 1. Ordinance No. 2002-9. An ordinance amending Article XIV, Traditional and Contemporary Community Zoning Districts, of the Santa Fe County Land Development Code (Ordinance 1996-19) to add a new Section 6, La Cienega and La Cieneguilla Traditional Community Zoning District (second public hearing)**

PAUL OLAFSON (Planner): Good evening. Thank you, Mr. Chairman. Again, this is the second public hearing for the La Cienega and La Cieneguilla Community Plan Ordinance. The proposed ordinance will codify policies outlined and adopted in the La Cienega La Cieneguilla Traditional Community Plan and the proposed ordinance was unanimously recommended for approval by the La Cienega La Cieneguilla Development Review Committee and the first public hearing for this ordinance was on May 14, 2002. The proposed ordinance does meet all the required planning elements of Article XIII of the Land Development Code.

There has been extensive public outreach process in developing both the plan and the ordinance. I have a couple of attachments I want to go through and this is the second public hearing so action is requested and staff is recommending approval of the ordinance.

If you'll turn to the second page of your packets there's some attachments there. We went through these attachments at the last hearing except for the second page of those attachments, beginning at the top, it says page 9, water use for constructed wetlands and riparian areas. And we reworked this language working with the Santa Fe Watershed Association. If you'll remember when the plan was first brought forward there was some discussion on it and we've been working with that and we've kind of come to this language. And it would replace the language there at the bottom.

Basically, this is a statement supporting restoration and enhancement of riparian and wetland areas, that it is a potentially valuable resource. Management practice, and such projects should be designed and implemented to maximize benefits to ecosystem and water resource while avoiding harm to health, safety and welfare of residents, including but not limited to private property and public infrastructure.

Next, it goes down to describing a process for developing such a program. Point 1 there outlines how written notice of a project should be forwarded to the community planning committee and there should be an opportunity for community input in such a project. Point 2 says that an applicant for a project should submit a hydrologic report for review that analyzes

the effects of the project in terms of evapo-transpiration, infiltration, and recharge. And also the subject process might be subject to monitoring.

Item 3 then outlines that projects on perennial streams shall demonstrate adequate water rights and/or a source of water to meet the consumptive need of the riparian area or wetland.

Item 4 then outlines that a project on ephemeral streams, water sources or arroyos should provide estimates based on the best available data of how occasional flows will be managed to raise water table, and or generate surface water resources to support the consumptive needs of the wetland or riparian area.

And item 5 then says that all projects should meet all Code requirements as well and outlines some of the County Code requirements as well as some of the other agencies that might be involved in such a project.

So that's the addition from the first public hearing in your packets. Also I've handed out to you three more pages and I would like to begin with additional proposed amendments to the ordinance. [Exhibit 2]

COMMISSIONER TRUJILLO: Excuse me, Paul. On these water use for constructed wetlands and riparian areas, are they private individual projects? Are they community projects? What are we talking about here?

MR. OLAFSON: The point here is when doing restoration or wetland work that it should be a community project. I think it's more focused on public projects but it would apply as well to a private project. And the idea is to design projects that are not potentially impairing any downstream users of water sources as well as that are on a scale that are appropriate and manageable for the area?

COMMISSIONER TRUJILLO: Is this realistic or is this pie in the sky? Can this happen in this area? I'm sure that the community wants it to happen, to give impetus to restoration in the riparian areas and the drainage areas, but I've never seen this before. La Cienega is a unique community. They're dependent on their ojitos, their springs and the little river there for water. So I guess it's unique to the community of La Cienega.

MR. OLAFSON: Mr. Chairman, Commissioner Trujillo, this is of course unique for the planning area of La Cienega and the do have a different water resource than many areas of the County. And the idea, I don't think these are pie in the sky. I think it is a good idea, the restoration and management, and the idea here is to make a clear process. And there has been work done in this area and there probably will be additional future work as well. So this is trying to outline a good, clear process that everyone can understand and follow.

COMMISSIONER TRUJILLO: Thank you, Paul.

COMMISSIONER SULLIVAN: Paul, a question. I was confused on this new language with the use of the term "constructed" in the title. It wasn't in your old language. And when I think of—and you don't say "constructed wetlands" in the text of this change. When I think of constructed wetlands I think of wastewater disposal areas as constructed wetlands. Is that what you mean here? Throughout the rest of it you just say "wetlands" and before it said "new riparian areas and wetlands." There's a bit difference here if we're trying to legislate constructed wetlands, that's really an Environmental Department task I think.

2179027

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, I would agree and I think that's an oversight in our titling and I would suggest possibly changing that title to restoration enhancement and/or new construction of riparian areas or wetlands. I think that's the aim of it and it's more aimed at restoration type projects. And what you're describing—

COMMISSIONER SULLIVAN: We're not talking about constructed wetlands which is a method of treating sewage.

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: Okay. Does that name sound better.

MR. OLAFSON: Okay, next I wanted to go to the handout that was proposed amendments and the first comment was that throughout the entire document when the Code or other County regulations are mentioned, that we should include the words, "as amended." So that as the Code might be amended or changed in the future, that every time it's referenced throughout the document it should also have the words "as amended" attached.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Does that mean essentially that the Code amendments would be applicable to this ordinance? Any external Code amendments? Is that what you're talking about?

MR. OLAFSON: Mr. Chairman, Commissioner Campos, yes. As the Code then evolves. I don't believe the idea is to change this ordinance, but the other aspects of the Code can be amended and changed over time. So as they are changed, and we refer to Section something of this, a cross reference within the document, that we're not referring to the Code as it is only today. That as the Code evolves in the future that this document evolves with it. For example in a cross reference. I would defer to Steve.

MR. KOPELMAN: Mr. Chairman, members of the Commission, the other thing is just for example we're going to be going through a fairly extensive and comprehensive Code rewrite. So we expect that Code sections will change. Certainly the section numbers will also change. So this really takes care of any changes in the future.

MR. OLAFSON: Okay, then additionally, page 2 of the ordinance, Section 6.4, Zoning Density. There's two changes here that were also suggested. One is in the second sentence of 6.4.2, 6.4.3, 6.4.4, referring to zoning. That when we're talking about going from their base zoning, say 160 in the Homestead area, down to 40-acre lots through a lot split, which is the procedure now that we call out that it should be accompanied with a proof of water supply through a geo-hydrologic reconnaissance report. And that's the process that we use now and it was asked that we clarify that within this document. And those sections are describing the base zoning that exists in the County. The intent here is not to change that zoning but through the ordinance and this addition is to clarify that process as it exists.

And then the second comment is right below that, to the third sentence of the same sections, 6.4.2, 6.4.3, 6.4.4. When it says If an adequate 100-year supply of water, and adding, and no impairment to neighboring wells is proven. And again, this is how the process is done and our legal counsel advised us to spell this as clearly as possible.

2179028

Those are the amendments that are proposed. Next, I'd like to just call your attention. One is an e-mailed letter that I handed out to you and this is from Paige Grant who is the executive director of the Santa Fe Watershed Association and it goes back to the riparian and wetland language we were just discussing and she states that briefly she supports the language as is. [Exhibit 3]

And secondly there's a letter from Commissioner Gonzales, also expressing support for the ordinance. [Exhibit 4] And with that, that's the end of my presentation and I'll stand for any questions.

CHAIRMAN DURAN: Any questions of staff. Thank you, Paul. This is a public hearing. Is there anyone out there in the audience that would like to address the Commission concerning this issue? Please step forward. State your name for the record. Let the recorder swear you in. Do they need to be sworn in? Please state your name for the record, sir.

CHARLIE C DE BACA: Charlie C de Baca. I'm a life-long resident of La Cienega. I've worked on this plan with other members of our community here for the last five years. I myself recommend the Commission approve it. I think it's a good plan. It's a start for our community here to bring awareness, development and trying to preserve our community, hopefully down the line. I think it's a good plan so I hope you guys do and vote for it. Thank you.

CHAIRMAN DURAN: Thank you, sir. Anyone else out there like to address the Commission? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of Ordinance 2002-9, creating a traditional and contemporary community for the La Cienega La Cieneguilla traditional community.

CHAIRMAN DURAN: Is that with the new proposed amendments?

COMMISSIONER TRUJILLO: Yes, it is.

CHAIRMAN DURAN: I'll second that. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman, while you were out, there was just one clarification by Paul on the title of 6.15.4. There is a slightly different title for that. State that again, Mr. Olafson, for the Chairman.

MR. OLAFSON: Yes. We proposed changing the title of 6.15.4 to read as "Water use for restoration, enhancement and/or new construction of riparian areas or wetlands."

CHAIRMAN DURAN: Okay.

The motion to approve Ordinance 2002-9 passed by unanimous [4-0] roll call vote, with Commissioners Trujillo, Duran, Sullivan and Campos all voting in the affirmative.

CHAIRMAN DURAN: Good work, Paul. Congratulations.

MR. OLAFSON: Thank you, and Mr. Chairman, Commissioners, and if I

2179029

might indulge one second. Thank you all for your support in this process and I'd also like to say thank you to the community members. And you'll recall that the process to develop the plan as well as the ordinance involved a lot of different opinions and not everyone always agreed and I'd like to congratulate the community members for sticking through this long and arduous process and for the Board, both present and past, for supporting this process and allowing this to happen. And also say thank you to all the staff, along with planning who worked on this and helped make it come to fruition.

CHAIRMAN DURAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chairman, a quick question for Mr. Olafson. An issue I've raised repeatedly with you is infrastructure—water and wastewater. I think the community has to commit to that and I don't know how you're going to do that or when you're going to do that. It is essential that this community start working on a water system and a wastewater system. And if they don't, the benefit of this plan will never be fully experienced. So I would hope that you could keep in touch with the community, work with the community to move this process forward. We need infrastructure.

We talk about water and beautiful ideas but when it comes down to essential things like water and wastewater, we're not doing the job. So the County could be involved with the community with a special assessment district, whatever it takes. If we don't take care of it ourselves, nobody's going to do it for us. I think we still have a long way to go before we complete this job. Thank you.

CHAIRMAN DURAN: Thank you, Paul.

MR. OLAFSON: Thank you.

- X. A. 2. **Ordinance No. 2002-___. An ordinance amending Article VII, Section 6.2.2.c, and adding a new section 6.2.2.d to the Santa Fe County Land Development Code (Ordinance 1996-10) to require proof of a valid water right permit for Type I and Type II subdivisions and non-residential developments using more than 1.0 acre-feet of water annually (first public hearing)**

CHAIRMAN DURAN: Steve, I have a question please on the next item on the agenda. I think that the caption is flawed and I'd like to make a motion to table this because I think that the notice is improper. If you look at the notice, it says, it references that we're changing the Code to require proof of a valid water right permit for Type I and Type II subdivisions. And if you actually look at the background it states that the proposed changes, if we adopt this ordinance require that any Type III subdivision acquire water rights. And my question is there's no mention in the caption or in the agenda referencing Type III. So to me it seems flawed and inappropriate.

MR. KOPELMAN: Mr. Chairman, members of the Commission, Katherine and I did meet and discussed that issue and you are correct that there should be a reference

to Type III subdivisions of more than 13 lots. So that is true. I think because of the requirement for two public hearings, I think the Commission has the discretion to take testimony on this, but you clearly could not adopt this.

CHAIRMAN DURAN: Steve, the problem is that the people that are opposed to this as it relates to Type III weren't aware that the meeting was taking place to discuss water rights relative to Type III and how can we have a public hearing? Then we're only giving the people that are opposed to it one hearing to discuss it with us? How can you advise that?

MR. KOPELMAN: Mr. Chairman, that's your discretion. I think clearly the Commission there's a good basis to table this. There's no question about it.

CHAIRMAN DURAN: I'm not looking for a good basis I just want to do what's legal and it seems to me that if we don't publish, if the public is not made aware that we're going to be discussing issues relative to Type III subdivisions, that we shouldn't be talking about them.

MR. KOPELMAN: I think there is a problem with the caption. I agree. There is.

CHAIRMAN DURAN: I believe that we need to address this issue but I don't want to ruin the possibility of adopting something here that the community needs because it was a flawed notice.

COMMISSIONER TRUJILLO: I move to table.

CHAIRMAN DURAN: I second it.

The motion to table tied by a [2-2] voice vote.

CHAIRMAN DURAN: How can you want to go forward with a flawed—

COMMISSIONER SULLIVAN: Well, would you like to discuss it a little or would you just like to make a speech and move to table.

CHAIRMAN DURAN: Sure. Let's discuss it.

COMMISSIONER SULLIVAN: Good plan. I think that technically, you're right. I think in that issue, one of the important issues here and the major issue in this has to do with the use of residential well permits for commercial use and not so much the Type I, II, and III subdivisions. I think there's ample notice here that what we're discussing is the Land Use Code in so far as dealing with water rights and dealing with the issues of do we continue to draw down the aquifer and provide free water for virtually any type of development that comes in front of us.

I think that's fairly clear in there. If you don't feel there's adequate notice, and I think obviously that there has been, otherwise people wouldn't have talked to you about it.

CHAIRMAN DURAN: No, no, no. Nobody talked to me about it. I called up people and asked them why they weren't here to discuss this. And they said we weren't notified. We didn't know that it was coming up. The caption basically says that we're talking about commercial use and Type I and II subdivisions. Not a Type III. That's why they're not

2179031

here.

COMMISSIONER TRUJILLO: I agree with Commissioner Sullivan that this is a very important issue and should be addressed. There is concern with the mining of the water table, the aquifer there but I think that we need to advertise it in the right way so that everybody that wants to comment on the issue can come forth and do that. I think this way, the way that it is now, even though you're stating that if we read between the lines, it's only for commercial and that, it's still not affording the opportunity for Type III subdivisions to come and provide input on the matter. I think it's very important.

CHAIRMAN DURAN: And the reason I'm so adamant about this is that if—

COMMISSIONER SULLIVAN: Because you're against it.

CHAIRMAN DURAN: I'm against it, number one. I don't think that's fair. I'm not against it. I'm concerned that if we don't do it right, all this is going to do is promote serial subdivisions, because the way of getting around it is—there's ways of getting around it. And I think you're going to promote that if we don't do it right. And I think we need to have the public's input into this process. You've promoted that in the past. Why would you not want to do it now?

COMMISSIONER SULLIVAN: I want all the public input including yours. If you have some suggestions for the ordinance, we brought this forward three months ago and at your request we went through meetings with individuals. Ms. Yuhas met with members of the development community. We deliberately slowed this process down so that we could have input from the development community. So I think we've done more than just publish title and general summary. We've gone that one step further to gain input.

I want the ordinance to be correct. If you've got some ideas to change it, and prevent serial subdivisions, I'd love to have that language in there too. That would be extremely important. What date are you proposing to table it to? The next Commission meeting? Just the next meeting. I'd even have a special meeting about it. I think this is an important issue. And I agree that we need to prevent mining the aquifer but I want to make sure that we do it right so that we don't get challenged, number one. That we don't create a situation here where we're bombarded with serial subdivisions and we spend thousands and thousands of dollars trying to prove that somebody—those things are hard to prove.

COMMISSIONER CAMPOS: Mr. Chairman, a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Kopelman, when could we reschedule this at the earliest?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, what I want to do after this meeting is sit down with Roman and Katherine to see what actually was published in the newspaper. Because it's possible that we may need to republish the notice. It's got to be two weeks before the meeting. Again, I am concerned. I think Chairman Duran brings up a valid legal point that this should note that it's also dealing with Type III subdivisions. I think that's the prudent approach. So I can do that right after the meeting and if we need to republish it, we can do that and we can hold—let me take a look at the calendar, but it would have to be I

2179032

believe it's 14 days after it's published. And so today's the 11th. Chances are we won't be able to get it published till the end of the week. So it probably would be the first meeting in July unless you scheduled a special meeting earlier in July.

I think that that makes sense. We need to make sure that, because it's an ordinance adoption that we follow all the formalities.

COMMISSIONER CAMPOS: Mr. Chairman, do you have any suggestions as to how we should go? First meeting of July? Would that be fine?

CHAIRMAN DURAN: That would be fine with me.

COMMISSIONER CAMPOS: Since there is no consensus, I would move for the tabling this time and the rescheduling to the first July meeting.

COMMISSIONER TRUJILLO: I think that because this is of such paramount importance we should have a special meeting for this issue and only this issue as soon as possible after the 14 day statute of limitation. This is going to take a while.

CHAIRMAN DURAN: This is a real important issue. There's a lot of things to consider and I think we want to make it as air-tight as possible, otherwise it really undermines the purpose for adopting or even considering.

COMMISSIONER CAMPOS: I would amend my motion to table to reschedule this to some time after July 16th at a special meeting for the BCC.

CHAIRMAN DURAN: I second it.

COMMISSIONER SULLIVAN: Why after July 16th?

COMMISSIONER CAMPOS: I'm going to be out of town from the 11th to 16th.

CHAIRMAN DURAN: Well, why don't we do it the week of the 11th?

COMMISSIONER SULLIVAN: We wouldn't have enough time on the 9th to at least—I guess I'm thinking we wouldn't have enough time on the 9th since we have two hearings. You're thinking the first hearing would be the long one? Is that what you're thinking? That we'd need a special meeting. There'd be a lot of input?

CHAIRMAN DURAN: Maybe not a lot of input but there is some discussion amongst us.

COMMISSIONER SULLIVAN: You'll be here on the 9th, won't you? I'd guess I'd rather it go forward on the 9th and if at that point in time, we see that the testimony is long and involved and we need a special work session, then we still have that time between that and the second ordinance publication to do that. See what I'm saying?

COMMISSIONER TRUJILLO: That's fine.

CHAIRMAN DURAN: I'm fine with that.

MR. KOPELMAN: Mr. Chairman, members of the Commission, in the notice in the newspaper we need to list the dates of the hearings. So we really need to have the two dates set if we can. We can always table one, but we need to have those dates. They need to be a date certain when we do the publication.

COMMISSIONER SULLIVAN: So if you did July 9th, and then the next Commission meeting is not until July 30th. We have a three-week—

CHAIRMAN DURAN: But that's a day meeting. This needs to be a night.

COMMISSIONER SULLIVAN: So then we're from July 9th, then we're onto August 13th. I think there's a lot of time in there for a work session. We could publish a work session if we felt that we weren't getting—

CHAIRMAN DURAN: What if we said the 13th? Could we amend that at the 9th meeting? Once we've polled the Commissioners to find out what date works prior to that?

MR. KOPELMAN: Mr. Chairman, that's possible. Like I said though, you need to publish the dates, and if we need to change them, that can be done, but we need to at least come up with the dates.

COMMISSIONER SULLIVAN: Well, if you think we would need a work session for it, what about July 23rd?

CHAIRMAN DURAN: Is that prior to the first meeting? I was thinking of having one prior to the first meeting.

COMMISSIONER SULLIVAN: Oh, prior to the first meeting.

CHAIRMAN DURAN: Or that the first meeting should be the one that we—

COMMISSIONER SULLIVAN: Get the most comment on.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: I think what they're saying is that we can't make the meeting on the 25th. Do we want to do it the 2nd of July?

CHAIRMAN DURAN: Is that the next Tuesday?

COMMISSIONER SULLIVAN: That's the next Tuesday after the 25th.

CHAIRMAN DURAN: I can do that, I think. Can you do it? I don't have anything better to do.

COMMISSIONER SULLIVAN: And then Steve, do we also have to have the second date published for the second hearing?

MR. KOPELMAN: Mr. Chairman, what we actually have to publish by the statute is the date when it's going to actually be heard for adoption. Since we have two hearings, we always put the two dates in, even though the first date is not adoption, it gives the public full notice of when the hearing is. We could probably make it by July 2nd. It's going to be close in terms of getting the publication out in time but I think that's doable.

COMMISSIONER SULLIVAN: That's 21 days.

MR. KOPELMAN: Right, but the problem is getting the newspaper—

COMMISSIONER SULLIVAN: I understand. They have three days or so to publish. If we could do that the 2nd and list the 9th as the date for adoption. But then if at the meeting on the 2nd, if we want to push it back we can. See what I'm saying? List the 2nd and the 9th. If on the 2nd, there's a lot of unanswered issues that we can't resolve—

CHAIRMAN DURAN: Our standard procedure, Commissioner, was that there was 30 days between the two meetings.

COMMISSIONER SULLIVAN: Is that required? Thirty days?

CHAIRMAN DURAN: I don't know if that's required but that's basically been our—hasn't it been?

MR. KOPELMAN: Mr. Chairman, Commissioners, I think that's usually what

we do but there is no, like you said, there's no requirement. It's really up to the Commission.

COMMISSIONER TRUJILLO: We could do it on the 9th and 13th and if we need to have a study session in between, we'll do it.

COMMISSIONER SULLIVAN: Well, the 13th is a Saturday. The 11th through the 16th, Commissioner Campos is going to be out. I was just saying on the 2nd and the 9th. If we need to push back from the 9th, we push back.

COMMISSIONER TRUJILLO: Second and the 9th.

COMMISSIONER SULLIVAN: Yes, those are two Tuesdays.

CHAIRMAN DURAN: Why do you want to push this thing so fast?

COMMISSIONER SULLIVAN: Well, I'm not pushing fast. It's been sitting on the table for between four to six weeks.

CHAIRMAN DURAN: We haven't even had any public comment yet.

COMMISSIONER SULLIVAN: I know. We're going to get that on the 2nd, right?

CHAIRMAN DURAN: And then immediately you want to push to adopt it.

COMMISSIONER TRUJILLO: What Chairman Duran is saying is that we usually have 30 days between the first and second public hearing.

CHAIRMAN DURAN: If we're going to do this right, why don't we do it right. I'm not suggesting that we're not doing it right—

COMMISSIONER SULLIVAN: Can we do it on the 30th then? That's a meeting—there's no EZA on the 30th, is there?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I believe there is EZA on the 30th. But there is discussion about changing that EZA date in July.

COMMISSIONER SULLIVAN: That was the direction the EZA gave.

CHAIRMAN DURAN: Let's use that date to change the EZA meeting. So we'll have the public hearing on the 30th at 6:00 p.m.

COMMISSIONER SULLIVAN: The second public hearing. The first public hearing will be—

CHAIRMAN DURAN: On the 2nd.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: And then the 30th will be the second and we'll just tell the EZA members that we need to find a new date.

COMMISSIONER SULLIVAN: Well, we told them that at the last EZA meeting. That was the direction to the staff was to change the meeting.

MR. ABEYTA: Mr. Chairman, we think we are going to change it in July, but we'll have that discussion with the full EZA now at the end of June, at the regularly scheduled meeting.

CHAIRMAN DURAN: That's okay with me. Do you want to do that?

COMMISSIONER SULLIVAN: Whatever it takes. I'd just like to move it forward. So the 2nd and 30th.

MR. KOPELMAN: So Mr. Chairman, members of the Commission, you don't

2179035

want to just do it in the regular meeting of the 9th, and then do it on the 30th?

COMMISSIONER TRUJILLO: Why not?

CHAIRMAN DURAN: Yes. Let's do that.

COMMISSIONER SULLIVAN: That's okay too. I just was responding to the suggestion that we have a special session on it. Okay, we'll do it on the 9th.

CHAIRMAN DURAN: Okay, good.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'll amend my motion to the first meeting July 9th and the follow-up meeting July 30th for consideration of the ordinance adoption.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to table until July 9th and July 30th passed by unanimous [4-0] voice vote.

CHAIRMAN DURAN: Thank you, gentlemen. I think we did the right thing.

- X. A. 6. **LCDRC CASE # A/V 02-5130 Isabel Tafoya Appeal/Variance**
Isabel Tafoya, applicant, is requesting a family transfer land division of a 3.72 acres into two lots, which would result in a variance of Article III, Section 10 (lot size requirements) of the Land Development Code. The property is located off Via de los Romeros in the traditional historic community of La Cienega, within Sections 19 and 30, Township 16 North, Range 8 East

AUDREY ROMERO (Review Specialist): Thank you, Mr. Chairman. A quick correction to the caption. That should be LCDRC.

COMMISSIONER SULLIVAN: Table?

CHAIRMAN DURAN: Shall we table?

COMMISSIONER SULLIVAN: I withdraw that.

MS. ROMERO: On April 11, 2002, the La Cienega/La Cieneguilla Development Review Committee met and acted on this case. The decision of the LCDRC was to grant approval of the appeal request and denial of the variance request. The applicant is requesting a variance of the lot size requirements of the Land Development Code in order to allow a 2-lot family transfer land division of a 3.72 acre tract. Lot 1 would be 1.47 acres more or less, and Lot 2 would be 2.253 acres, more or less. A portion of Lot 2 will have an irrigation/grazing easement to be shared by both lots.

"The property is located off Via de los Romeros in the traditional historic community of La Cienega in the Basin Fringe Hydrologic Zone. Article III, Section 10 of

want to just do it in the regular meeting of the 9th, and then do it on the 30th?

2179036

COMMISSIONER TRUJILLO: Why not?

CHAIRMAN DURAN: Yes. Let's do that.

COMMISSIONER SULLIVAN: That's okay too. I just was responding to the suggestion that we have a special session on it. Okay, we'll do it on the 9th.

CHAIRMAN DURAN: Okay, good.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'll amend my motion to the first meeting July 9th and the follow-up meeting July 30th for consideration of the ordinance adoption.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

The motion to table until July 9th and July 30th passed by unanimous [4-0] voice vote.

CHAIRMAN DURAN: Thank you, gentlemen. I think we did the right thing.

- X. A. 6. **LCDRC CASE # A/V 02-5130 Isabel Tafoya Appeal/Variance**
Isabel Tafoya, applicant, is requesting a family transfer land division of a 3.72 acres into two lots, which would result in a variance of Article III, Section 10 (lot size requirements) of the Land Development Code. The property is located off Via de los Romeros in the traditional historic community of La Cienega, within Sections 19 and 30, Township 16 North, Range 8 East

AUDREY ROMERO (Review Specialist): Thank you, Mr. Chairman. A quick correction to the caption. That should be LCDRC.

COMMISSIONER SULLIVAN: Table?

CHAIRMAN DURAN: Shall we table?

COMMISSIONER SULLIVAN: I withdraw that.

MS. ROMERO: On April 11, 2002, the La Cienega/La Cieneguilla Development Review Committee met and acted on this case. The decision of the LCDRC was to grant approval of the appeal request and denial of the variance request. The applicant is requesting a variance of the lot size requirements of the Land Development Code in order to allow a 2-lot family transfer land division of a 3.72 acre tract. Lot 1 would be 1.47 acres more or less, and Lot 2 would be 2.253 acres, more or less. A portion of Lot 2 will have an irrigation/grazing easement to be shared by both lots.

"The property is located off Via de los Romeros in the traditional historic community of La Cienega in the Basin Fringe Hydrologic Zone. Article III, Section 10 of

2179037

the Land Development Code states the minimum lot size in this area is 50 acres per dwelling. Lot size may be reduced to 12.5 acres if the applicant can demonstrate adequate water and 6.25 for a family transfer.

The applicant states that she has owned this property for her entire life and it has been in the Romero family for centuries. She would like to transfer ownership to her two sons in order to keep it in the family and continue the tradition of passing on property to family members. Currently, there exists an old corral with no other buildings. There is no water well on the property. The applicant states there are two natural water springs on the property which the livestock use for water.

Recommendation: Staff recommends denial of the variance based on Article III, Section 10 of the Land Development Code which state the minimum lot size in this area is 12.5 and 6.25 acres for a family transfer. Thank you, Mr. Chairman.

Mr. Chairman, I need to make a correction to staff recommendations for the record. We need to delete number 7, which states applicant must comply with La Cienega Watershed conditions. This property is not within the La Cienega Watershed area. Thank you, Mr. Chairman.

[The conditions are as follows:]

1. The applicant must follow all other family transfer regulations.
2. Water use shall be restricted to 0.25 acre feet per lot. Water restriction covenants shall be recorded with the plat. A water meter shall be installed for each lot.
3. No further division of this land shall be permitted, and this shall be noted on the plat.
4. Applicant must submit a Shared Well Agreement with family transfer plat.
5. Existing driveway to serve the existing residences

COMMISSIONER TRUJILLO: I have a question, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: You say here that the property is located off Via de los Romeros in the traditional historical community of La Cienega. Isn't the minimum lot size in a traditional community $\frac{3}{4}$ of an acre? Am I not correct? Or is this something else that the community decided to put in place through their community planning process, or what happened here?

MS. ROMERO: Mr. Chairman, Commissioner Trujillo, there are two designations. There is traditional community, which is a County zoning designation, which is, you're correct. That would be $\frac{3}{4}$ of an acre minimum lot size. But there's also the traditional historic community, which is a state statute designation.

COMMISSIONER TRUJILLO: Okay. So this is outside the traditional community but within the historical traditional.

MS. ROMERO: Mr. Chairman, Commissioner Trujillo, that is correct. It is in the traditional historic community.

COMMISSIONER SULLIVAN: Mr. Chairman.

2179038

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Audrey, what's the impact or how does this affect the ordinance that we must now passed?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, the ordinance states that it still recognizes the same minimum lot size of 12.5 acres and 6.25 for family transfer. It does also though talk about increased density and it requires that a geo-hydrological study be done to go below the 6.25, if the Commission is going to increase the density above the 6.25 or higher than the 6.25.

COMMISSIONER SULLIVAN: So if we reduce this lot size then they would now have two lots. Would they be required to do the geo-hydro and comply with the community ordinance that we just passed, or not?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it's my understanding that the intent of this language was to address these appeal/variances. They didn't want to come out and put in the ordinance appeal/variances but they said that increase in densities above or higher than the 6.25 would need to be done with a hydrology report.

COMMISSIONER SULLIVAN: In this case the applicant, it's my understanding, is not proposing any development. She just wants to split her lot to provide a parcel for a family member.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, that's correct. However, once a lot is created, we have to recognize that and allow them to build should they change their mind. A year from now or a month from now or once a lot's created, they're allowed a residence on that lot.

COMMISSIONER SULLIVAN: So once this lot's created, then in essence they wouldn't need to comply with that provision of the ordinance that we just passed.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I believe that that provision would need to be complied with before we created the lot. Because what you're doing, and I think the way it's written and again the intent is that once you create the lot, you're increasing the density above what's allowed by Code, just by the creation of the lot itself.

COMMISSIONER SULLIVAN: So go one step further there. Then if this lot is then divided and two lots are created, they don't come under the ordinance. There's no requirement under the La Cienega Ordinance that they do a geo-hydrological to approve the availability of the water for the greater density.

MR. ABEYTA: That's right. Because you've created that lot and so it's created and they don't need to comply with that section anymore. Once the lot gets created.

COMMISSIONER SULLIVAN: Okay. That's one question. The other question, Audrey, that I was a little confused on is the LCDRC voted to grant approval of the appeal and denial of the variance. Could you explain to me what happened there?

MS. ROMERO: Mr. Chairman, Commissioner Sullivan, this case went

2179039

forward as an appeal/variance and so the members of the LCDRC first acted on the appeal request and their decision was to grant the appeal so they could hear the variance request. And once they heard the variance request they denied that.

COMMISSIONER SULLIVAN: Oh, I see. Okay. Thank you.

COMMISSIONER TRUJILLO: Question. Ms. Tafoya has 3.72 acres of land. That does not satisfy ostensibly the minimum lot size in that community. Does that mean that she can't do anything with this land whatsoever?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, we would recognize that land by itself as a legal non-conforming piece or grandfathered in piece. So we would allow her to construct a dwelling unit and put accessory structures. So we would recognize it as one lot and allow her to build on it. But they would be subject to one dwelling unit on that lot.

COMMISSIONER TRUJILLO: So even if it's a family transfer, so one of her sons would get a piece of land and the other would be left holding the bag, essentially. And I think it stipulates in here that the family has owned the land for a long time with the expressed intent of transferring it to their offspring from one generation to the next. The land and the family owned the land before the regulations came into place. And so for a family transfer, I see that maybe we should consider this in a favorable way.

CHAIRMAN DURAN: Any questions of Audrey? Okay, Audrey. Thank you. Is the applicant here? Please state your name and address for the record and let the recorder swear you in.

[Duly sworn, Anthony Tafoya testified as follows:]

ANTHONY TAFOYA: Anthony Tafoya, 419 Jemez Road.

CHAIRMAN DURAN: Mr. Tafoya, I have a couple questions. Do you know of any other 1.5 or 2-acre lots that are close to where you are proposing this lot split?

MR. TAFOYA: Chairman Duran, Commissioners, yes. Within probably 200 to 300 yards of this property we do have some, another parcel that was three acres that has been subdivided into a four-piece parcel. That was done, apparently before the ordinance went in of 1990. So we do have some property that is less than what the requirement is, that we're appealing for.

CHAIRMAN DURAN: Okay. Do you have anything to add?

MR. TAFOYA: Yes, I would like to add that this property, as you know, has been in our family for generations and my mother would like to convey that to my brother and I. Also even though we are in the fringe, I would like to state that 50 percent of the La Cienega traditional community also resides within the fringe. And that area is still allowed for a $\frac{3}{4}$ -acre subdivision of property. All I can say is without the approval of a family transfer the property would really not be developable between my brother and I because we would like to have separate title to that property.

CHAIRMAN DURAN: What are your plans for the property?

MR. TAFOYA: At this point we have no plans. My mother's wishes are to

2179040

transfer the property. We have no plans at this time to develop it. We have no electrical power at this time on that property. So right now we only use it for grazing of livestock.

CHAIRMAN DURAN: Okay. Any questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Tafoya, the other parcel that you were just talking about that was divided into four parcels. Was that owned by you or your mother?

MR. TAFOYA: No, that is not owned by us. It was owned, or is still owned by my aunt and this community has been owned and used by the Romeros for generations.

COMMISSIONER SULLIVAN: Okay. The pieces right next to you are in your family. Are they developed?

MR. TAFOYA: No, the one parcel that has been split either two or four ways does have a dwelling on it at this point and we do have someone that lives there.

COMMISSIONER SULLIVAN: Okay. The entire parcel is owned by your aunt.

MR. TAFOYA: Yes.

COMMISSIONER SULLIVAN: And it's been divided by family transfer into four lots.

MR. TAFOYA: Correct.

COMMISSIONER SULLIVAN: One of which has a home on it at this point.

MR. TAFOYA: Correct.

COMMISSIONER SULLIVAN: But it still stayed within your family. It hasn't been sold.

MR. TAFOYA: Correct. It has stayed within the family and there is a dwelling on it at this point.

COMMISSIONER SULLIVAN: So are any of those lots available to you? I guess I was just trying to work on Commissioner Trujillo's question of one of you would be left out.

MR. TAFOYA: No, that property was subdivided by my aunt to give to her siblings. So that will remain in the Romero family.

COMMISSIONER SULLIVAN: Okay, so she has four siblings?

MR. TAFOYA: Correct.

COMMISSIONER SULLIVAN: That's all the questions I had, Mr. Chairman.

CHAIRMAN DURAN: Any other questions of the applicant?

CHAIRMAN DURAN: Okay, thank you. Is there anyone else, Mr. Tafoya that wants to speak on behalf of the proposal?

MR. TAFOYA: No.

CHAIRMAN DURAN: This is a public hearing. Is there anyone out there that wants to speak for or against this proposal? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: I move for approval of the variance request by Ms. Isabel Tafoya, LCDRC Case #V 02-5131, with conditions one through five.

CHAIRMAN DURAN: What happened to six?

COMMISSIONER SULLIVAN: Staff deleted it. So it's 1 through 5. I'll second that. Any further discussion?

COMMISSIONER SULLIVAN: We were just deciding who would go first. I just want to reiterate that my concern here is the fact that we just passed an ordinance that everyone said was the product of community support and community participation and three to four years of planning and now the first action that we take an hour later is to approve of a variance to the plan. So I can't find that that's the proper thing to do.

CHAIRMAN DURAN: But even to the plan there should be variances allowed based upon certain criteria and some reasonableness for granting a variance to that. I think keeping property in the family and allowing your children to take advantage of home ownership is a worthwhile endeavor.

COMMISSIONER SULLIVAN: Well, I think in some cases it is if we knew that was what was going to happen and of course in this case we don't know. It can be sold. There's no particular plans for developing it. I think, and I've supported variances in the past where they've been minimal easings of the Code. And where we've been a few tenths or hundredths off on acreage or there's been conditions of extreme hardship, but here, we're creating lots that are 1.47 and 2.25 acres, where the Code and the La Cienega plan require that family transfers be 6.25 acres. So we're not even close.

And again, as I say, I have voted for variances where there have been minimal easing. I don't consider this a minimal easing. I think this is a fairly substantive difference. That's all I have, Mr. Chairman.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I guess if I was going to err, I would err on behalf of the family. This has shown me that this family has been stewards of the land for generations. They've taken care of the land. They passed it on from one generation to the other. I would speculate that they participated in the community planning process, and they want to abide with a good quality of life for the community. They've stayed in that community for many generations. They will continue to be part of that community based on the information that I have for many, many years to come. I would like to afford that family the opportunity to stay in that community, because they've been part of that community for hundreds of years.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'm just disturbed like

2179042

Commissioner Sullivan just stated. We adopt an ordinance just an hour or two ago. We say this is the standard. These are the rules we're going to play under. And immediately you want a vary it. Family transfers already have a variance at 6.25. That's by ordinance. That's already half of the regular standard. So they already have a built in variance and you're going even further. And it's hard to me at meeting after meeting to be here and see some Commissioners just ignore the law, ignore the wishes of the community.

Mr. Tafoya, there is a reason for this law. It's to preserve the water and the water quality. And that's why we have it. And it's hard for me to sit out here every damned meeting and have some Commissioners just ignore the law and the wishes of the committee. And I have to stand out here by myself or with one other Commissioner. It's just not right. It is almost cynical that we cast plans that are grandiose and then, an hour later, we just vary them without concern for the community's water, for the water availability in one of the biggest droughts we've had maybe in 100 years. Water quality, where we know we have a lot of people. There's going to be a tremendous amount of pollution. You're not even going to be able to drink the water.

So this is really—it's frustrating to me.

COMMISSIONER TRUJILLO: Mr. Chairman, in and of itself, I think all regulations and all ordinances are existential. We have to put in place a compassion for the people.

COMMISSIONER CAMPOS: Let's have no rules, Commissioner Trujillo. Let's have no rules. If we're going to pretend to have rules and not enforce them, let's just not have any rules. Period. That's a simple, honest, direct way to deal with it.

COMMISSIONER TRUJILLO: That's being austere. We still have to take good care of the community.

COMMISSIONER CAMPOS: We're not doing it, by every variance that comes here.

COMMISSIONER TRUJILLO: We have to take care of people, especially those people that have been long-term stewards of the land. And they will continue to be.

COMMISSIONER CAMPOS: Well, if you can pass a law that says that long-term stewards get an exception, try to pass that. See if that's legally sufficient.

CHAIRMAN DURAN: Look at the applicant. If I have to go down in infamy for someone who grants variances, then I'm proud to do that because I'm helping the people of this community.

COMMISSIONER CAMPOS: You took an oath to follow the law and you're not doing that, Mr. Chairman.

CHAIRMAN DURAN: I took an oath and I have upheld that oath. Just because you can't find it in your heart to give anybody a variance doesn't mean that I have to adopt the same—have that same posture that you have.

COMMISSIONER CAMPOS: Change the law, Mr. Chairman. You can't do this by variance.

CHAIRMAN DURAN: When I can grant a variance I'm going to do it.

COMMISSIONER CAMPOS: You don't have the authority. 2179043

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Well, take us to court.

COMMISSIONER CAMPOS: I'd love to.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd just like to add one other thing and when I look at these variances, one thing that's important to me is what the community representatives that we've put in place, none of whom I've appointed. They've all been appointed by either the former Commission or the Commission members who represent this area. And so I rely heavily on the testimony that comes forward from those local development review committees and what they say. Because they're passing on their neighbors, and that's the hardest thing to do. And in this case, by three to two, the vote was to deny the variance. That obviously took guts because these people are obviously neighbors of who they were, of the applicant they were considering.

So when I look at that, I say to myself, I feel I have to support what that local committee said rather than inject myself into the middle of it and make those value judgements.

CHAIRMAN DURAN: Their neighbors aren't even here to object.

CHAIRMAN DURAN: They've already done so by their decision, the three to two decision by the official body that you have appointed. Three to two.

COMMISSIONER TRUJILLO: The decision was not unanimous. Three to two. There was a division in the community. Two of them agreed that that should happen.

COMMISSIONER SULLIVAN: Well, we can always agree to disagree, I guess. I just feel we have to follow that guidance, not only the guidance in the ordinance, and I agree that flexibility is needed from time to time. As I said, minimum easings. But I think we need to look locally at what people went through. And if we constantly overturn what the local committees went through, they eventually come back to us and say, what are we doing out here? Why do you need us? What purpose do we serve? And I think that causes a problem.

CHAIRMAN DURAN: Well, I don't think a three to two vote on this issue is an indication that there was unanimous consensus that this case shouldn't be approve. Was there a motion.

COMMISSIONER TRUJILLO: Motion by me to approve.

CHAIRMAN DURAN: I seconded it. Okay.

The motion to approve LCDRC Case # 02-5131 tied [2-2] by voice vote, with Commissioners Trujillo and Duran voting in favor and Commissioners Sullivan and Campos voting against.

CHAIRMAN DURAN: The issue goes to the next County Commission meeting. Why don't you get with staff and they'll tell you what the procedure is. But basically, it comes to the next land use meeting for a full Board. If we're here. Thank you.

- X. A. 7. LCDRC CASE # V 02-5120. Dimitria and Dennis Saiz Variance. Dimitria and Dennis Saiz, applicants, are requesting a family transfer of 5.07 acres into two lots which would result in a variance of Article III, Section 10 (lot size requirements) of the Land Development Code. The property is located at 24 Camino Loma in the traditional historic community of La Cienega, within Section 6, Township 15 North, Range 8 East**

MS. ROMERO: Thank you, Mr. Chairman. On April 11, 2002, the La Cienega La Cieneguilla Development Review Committee met and acted on this case. The decision of the LCDRC was to grant approval of the appeal request and approval of the variance request. The applicant is requesting a variance of the lot size requirements of the Land Development Code in order to allow a two-lot family transfer land division of a 5.07 acre tract. The land would be divided into two equal parts of approximately 2.5 acres.

The property is located within the traditional historic community of La Cienega in the Basin Fringe Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 50 acres per dwelling unit. Lot size may be reduced down to 12.5 acres if the applicant can demonstrate adequate water. For family transfer the lot size may be further reduced to 6.25 acres.

The applicant states they intend to keep one lot for themselves where they presently reside and give the other lot to their daughter. They would like to give their daughter the opportunity to be able to afford to live in the Santa Fe area. The applicant's residence, one well, and one septic system are located on the northeastern portion of the property. The applicants propose to share the existing driveway with both lots.

Recommendation: Staff recommends denial of the variance based on Article III, Section 10 of the Land Development Code which states the minimum lot size in this area is 12.5 acres per dwelling unit and 6.25 for a family transfer. Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any questions of Audrey? Audrey, how far out of the traditional historic community is this property? Do you know?

MS. ROMERO: Mr. Chairman, I think it might be better to ask the applicant that, but my understanding is that it is quite close to the designation of the La Cienega traditional community.

COMMISSIONER TRUJILLO: Mr. Chairman, did this go before the local development review committee?

MS. ROMERO: Mr. Chairman, Commissioner Trujillo, this was heard on April 11 by the LCDR.

CHAIRMAN DURAN: And what was their recommendation?

MS. ROMERO: They recommended approval.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Was that a unanimous approval?

2179045

MS. ROMERO: Mr. Chairman, Commissioner Sullivan, the minutes state the motion passed by majority 4-2 vote.

COMMISSIONER SULLIVAN: I would say that's not unanimous. Okay, just wanted to clarify that.

COMMISSIONER TRUJILLO: It was not unanimous. It was the other way around.

COMMISSIONER SULLIVAN: Well, let me ask Audrey too. A condition was, a comment from Member Bustamante was that it was her understanding that the construction was contingent on the availability of City water and the motion was made that the variance be granted under the condition that the applicant hook up within a year or upon availability, whichever comes first. And that was the question I asked the question earlier in the meeting. This is the property that I was referring to. Do we have an answer to whether this property is going to have County water?

CHAIRMAN DURAN: Or community water?

COMMISSIONER SULLIVAN: No, County water. The real thing.

MS. ROMERO: Mr. Chairman, Commissioner Sullivan, it's my understanding that they're going to be bringing the County waterline down Paseo C de Baca, which is right off Camino Loma, which is where the property is located.

COMMISSIONER SULLIVAN: So in the contract we just approved earlier in the meeting, we're bringing the waterline almost to the property.

MS. ROMERO: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: So I think that we should definitely—that the applicant needs to hook into the County water system. And explain to me what he's proposing now. They want to split the lot and use two wells or use one well between the two lots.

MS. ROMERO: Mr. Chairman, Commissioner Sullivan, he's agreed to do a shared well with the existing well that's on the property.

COMMISSIONER SULLIVAN: Okay. Suppose we get rid of the wells. Suppose we split the lot, even though it's below the minimum, but we tie onto County water. Have we created a better situation for all the residents of La Cienega by doing that? We have one well off the system, but we have two homes on the septic system. Are we ahead, Roman, as a result of that?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, the current Code allows you to go down to 2.5 with County water. But the La Cienega ordinance though, still doesn't allow you to go below the minimum even with County water.

COMMISSIONER SULLIVAN: So it's still a variance.

MR. ABEYTA: It's still a variance, but those are what the two existing codes say.

COMMISSIONER SULLIVAN: We could make a case. He's got a 5.07-acre tract. If the land was divided into two equal parts of approximately 2.5 acres, using County water, he would meet the requirements of the Code, although not the requirement

2179046

of the La Cienega community ordinance that we just passed. Is that correct?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, that's correct. The other thing I feel I need to add is that the La Cienega won't go into effect for 30 days after it's recorded, I believe it's what it states. Within that time, he could technically come in, agree to hook up to County water and get his property approved administratively.

COMMISSIONER SULLIVAN: Let's do that. Let's do that. I'm all in favor of situations where variances can be granted that improve the overall situation of the neighbors in the community. And the testimony, I believe in the LCDRC meeting is that the applicant is a plumber and he estimated it would cost about \$2,000 to \$3,000 to hook up. That's less than the cost of a geo-hydro reconnaissance report, which he'd have to have otherwise. So it seems like this is one alternative, and I'm just trying to see if this makes sense. If overall, by giving a variance we're providing a better situation for the community and the surrounding residents. I'm thinking that we are if we do that. With the stipulation that he tie into County water. That's all the questions I had.

CHAIRMAN DURAN: Any other questions?

COMMISSIONER CAMPOS: Quick question for Ms. Romero. As far as septic, are you using septic tanks? Is that what they propose to use?

MS. ROMERO: Mr. Chairman, Commissioner Campos, yes. It's my understanding they're going to use two separate septic conventional systems.

COMMISSIONER CAMPOS: Conventional systems. Okay.

CHAIRMAN DURAN: Do you know how deep the well is there? Never mind, it doesn't matter. You can wait until you come on up. That's okay. Any other questions of staff. Thank you, Audrey.

MS. ROMERO: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Is the applicant here. That must be you. Please state your name and address for the record and let the recorder swear you in.

[Duly sworn, Dennis Saiz testified as follows:]

DENNIS SAIZ: Dennis Saiz, 24 Camino Loma.

CHAIRMAN DURAN: Do you have anything to add to the record, Dennis. Actually, maybe you could—what do you have to say about hooking up to the County water system as it goes by?

MR. SAIZ: Well, whenever the committee before I met with you guys, what I agreed to was, I was kind of leery as to whether or not that water was every going to come up that road. But I want to get a house built for my daughter who teaches here in Santa Fe. She commutes from Albuquerque. And so what I said was, I'd like to get that house built and work off the well, and I will agree in writing that whenever that water comes up that road, I will tie into it within a year. That would be fine with me.

As far as the well goes, I polled all the wells around me and they all had water at 30 feet, 40 feet, 58 feet, 40 feet, 17 feet, 80 feet and so on. Our well pumps 40 gallons per minute. It's a gusher. And we went down 160 feet after hitting water at 30 feet and it's been there for a long time. It supports us. We run it up the hill to our house. Don't have any

problems with it. There's plenty of water there. We did a—I got a comparable hydrology report with the same numbers as mine and it shows that there should be water there for 100 years.

CHAIRMAN DURAN: I don't think there's any question in my mind that there's plenty of water there, but one of the problems I have is that La Cienega is going to experience some real aquifer contamination. They probably have some now but it's going to get worse as time goes on and I think there's going to be an effort real soon to try and get a water and sanitation district created out there so that there's community or County water and a community wastewater system.

MR. SAIZ: I'm not sure exactly how that works. We are located really low in La Cienega, almost at the very end, where we're right by where they allow the $\frac{3}{4}$ -acre lots. And there's not a whole lot of other places that's going to go on down the road. I don't know how that works. I don't know if that answers your question or not.

CHAIRMAN DURAN: I was just getting—my point was, if there is a wastewater system created for the community, would you be willing to hook up to that also?

MR. SAIZ: I think so. That wouldn't be a problem. I'm all for that.

CHAIRMAN DURAN: Any other questions of the applicant? This is a public hearing. Is there anyone out there that would like to speak for or against this issue. If not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, I'd make a motion for approval with the staff conditions, and the condition that each lot connect to the County water system.

[The County conditions are as follows:]

1. The applicant must follow all other family transfer regulations.
2. Water use shall be restricted to 0.25 acre feet per lot. Water restriction covenants shall be recorded with the plat. A water meter shall be installed for each lot.
3. No further division of this land shall be permitted, and this shall be noted on the plat.
4. Applicant must submit a Shared Well Agreement with family transfer plat.
5. Existing driveway to serve the existing residences.
6. Applicant will connect to the water line off the intersection of Paseo C De Baca and Camino Loma within a year, or upon availability, whichever comes first.
7. Applicant must comply with La Cienega Watershed conditions.

COMMISSIONER TRUJILLO: Connect to the water system now, or when it's up the road? In other words—

COMMISSIONER SULLIVAN: In other words, a building—

CHAIRMAN DURAN: Within a year.

COMMISSIONER TRUJILLO: Like he's committed to do.

COMMISSIONER SULLIVAN: No, no. That's a condition. In other words, a building permit can't be granted until a connection is made. And the reason for that is that we just have an enforcement problem, that once we have homes built and they're put on wells, it's very difficult to go back and say, Yank that home off the well and

2179048

put a water connection in now. It's just—

COMMISSIONER TRUJILLO: Put it in writing.

MR. SAIZ: Excuse me, I will put it in writing. When that goes down, I will connect to it. In fact I even have a letter written up to that effect.

CHAIRMAN DURAN: There's no structure on the lot right now.

MR. SAIZ: Yes, I live there.

CHAIRMAN DURAN: Okay.

MR. SAIZ: There's a house there now.

CHAIRMAN DURAN: Okay. So when do you want to break ground on this second dwelling?

MR. SAIZ: As soon as I can get this done, I'd like to get her—I don't want her commuting another year from Albuquerque to Santa Fe.

CHAIRMAN DURAN: Okay. I follow you.

COMMISSIONER SULLIVAN: But my condition is that both homes be on the County water system.

MR. SAIZ: Yes. That would be fine. I'll put that in writing.

CHAIRMAN DURAN: But, correct me if I'm wrong, your motion is that he can't get the building permit for the second dwelling until he's done so.

COMMISSIONER SULLIVAN: Well, let me think about that. Roman, what is your recommendation? That's my thinking hat over there.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, he can put up a letter of credit to the County for the amount that it's going to take to hook up the water. That will allow him to get a building permit right away if the County is ready, or isn't moving quick enough on the construction of that line. He can sit down with our Utility Department and get a cost.

CHAIRMAN DURAN: That's \$2,000. A letter of credit is going to be what? \$20 for six months?

MR. ABEYTA: Mr. Chairman, it would be for the entire cost of installing that, his cost for extending the water.

CHAIRMAN DURAN: That's \$2,000. That's \$20.

MR. ABEYTA: It would be for \$2,000. They're not for ten percent. They're for \$2,000. They're for the actual cost. So it would be a letter of credit for \$2,000.

CHAIRMAN DURAN: Why make him go through all that.

COMMISSIONER SULLIVAN: Well, again, just because it's an enforcement—I understand what the applicant is saying. He's committed to do that. Something may happen. The property may be sold. I understand that's very unlikely if you live there and you're trying to build a home for your daughter but injury or something may happen and we never know what happens the next day. I like the letter of credit idea. I think that's just a standard procedure we use for anyone. The developer has to put forward a bond or something for improvements in the future. That waterline shouldn't take any

more than six months to complete if we authorized it today. It's already been out to bid so it's ready to go to construction. I'd be willing to amend the motion to say—

COMMISSIONER TRUJILLO: Is that a guarantee? That it will be there in six months?

CHAIRMAN DURAN: Oh, this is the one we had that money set aside for, right? The bond money, the GO bond money.

COMMISSIONER SULLIVAN: That's what Mr. Sayre reported, that we've got County money set aside for that project, as well as the residents' money. I would just say, I would amend it then if it's acceptable to the others that we approve the variance contingent upon applicant hooking up both residences to the County water system and providing a letter of credit in the amount necessary to achieve that.

MR. ABEYTA: And Mr. Chairman, if I may just clarify, that's only in the event that he wants to move forward before that line is constructed. So in other words, if he's willing to wait for six months or however long it takes, then we wouldn't need the letter or credit. We would just not issue a permit until he—but if he wants the permit right away, then we need the letter or credit.

COMMISSIONER SULLIVAN: But you would need the letter or credit for his house. See, he's agreed to hook up his house also. So let's just say theoretically if the cost is \$2,000 as he estimated, you would at minimum need a letter or credit for his house, \$2,000, and he wants to move forward right away to get a building permit for his daughter's house, then he would need a letter or credit for \$4,000. And I'm not sure, I think probably one line would serve both. I'm doubling but I don't think that's exactly the way it will work. Am I correct? Wouldn't one line serve both houses?

MR. SAIZ: Yes, it wouldn't be anymore expensive to do it for one house than it would to do it for two.

COMMISSIONER SULLIVAN: Yes, so you would need a letter or credit because it would be serving his house. It's just going to be one, what? four-inch line?

MR. SAIZ: My question is, a letter or credit, does that mean the County has to do the work? I couldn't get a private contractor to do it for me?

MR. ABEYTA: No, what that means, Mr. Chairman, is you can get a contractor to do the work and then we'd hold onto the money and we wouldn't release it to you until we inspected it and made sure your contractor did the work right. If I may just clarify, he's requesting to divide this property. So the way it would work is if he wanted to record a plat, because he can't get a building permit unless he records a plat. If he wanted to record the plat, he would either have to one, wait until the existing home is served with County water, or he would have to give us a letter or credit for both, for the line for the existing home and the new home, or the new lot.

COMMISSIONER SULLIVAN: And I think what he's saying is that that would be the same amount of money, because it would be just one line coming in on private property, right?

MR. SAIZ: It would go across probably past about six houses coming up to

2179050

mine.

COMMISSIONER SULLIVAN: Yes. But that's not a County road, is it?

MR. SAIZ: No, it's not a County road.

COMMISSIONER SULLIVAN: So it's coming down a private road and would come to your house and then once it gets to your house you would serve the two homes. So I think the cost would essentially be the same other than two water—the cost of the second water meter and maybe a little service line, would be the same either way. I think that's a reasonable accommodation and something where we get over the problem, and it may sound a little cumbersome and I agree that it might be, and we get over this enforcement issue where we just are unable to go back and enforce the conditions of these approvals.

COMMISSIONER TRUJILLO: A reasonable accommodation. Would the out-of-pocket expense be the same if he did the letter or credit now or waited until he initiated the connection to the waterline that goes in front of his property? Would that be the same?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, I think the issue is whether or not the maker of the motion wants a financial guarantee up front for the existing home.

COMMISSIONER TRUJILLO: But I'm debating whether to support this motion or not.

COMMISSIONER SULLIVAN: What would that cost, Mr. Chairman, Roman, what would a letter of credit cost to get this? Just ballpark.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I don't know, not even ballpark what it would cost.

CHAIRMAN DURAN: I paid \$90 for \$19,000.

COMMISSIONER SULLIVAN: You paid \$90 for \$19,000. So this is about ten percent of that, about \$2,000 to bring a line in. That would be \$9. Let's round it off to \$25. I don't know what a letter or credit would be. I guess my point is that my experience with a letter of credit is typically around ten percent, 15 percent, something like that. So I don't think—maybe we're talking \$20, \$30 to the applicant. I don't want to create a financial hardship on the applicant but I do want to put an enforcement mechanism in where—

CHAIRMAN DURAN: I don't think it's financial hardship but I think it's just a little too much. They've been there forever. They have a home there. They guy's been in the community forever. He taught my daughter, my son. I think we can trust him for \$2,000.

COMMISSIONER SULLIVAN: I don't think it's a matter of trusting the applicant.

CHAIRMAN DURAN: He's giving us a letter. I understand the concept.

COMMISSIONER SULLIVAN: I want something that will carry forward, not only through his letter, which is his guarantee and I'm perfectly comfortable with that,

2179051

but I don't know what might happen between now and then. I think this is a reasonable, not a financially burdensome requirement to put on an applicant for this type of a variance.

CHAIRMAN DURAN: Then he has to go to a bank. Then he has to get an estimate. First he has to get an estimate from a plumber, because we probably aren't going to accept his estimate. There's a conflict of interest there.

COMMISSIONER SULLIVAN: Are you a good plumber.

MR. SAIZ: I come from a family of plumbers. But I don't know. I'm a teacher. I've been a teacher all my life.

COMMISSIONER SULLIVAN: I'll accept his estimate.

CHAIRMAN DURAN: I just think it's a little overkill. Other than that, I think your motion is great.

COMMISSIONER SULLIVAN: Well, thanks. I don't think this is unreasonable. I want to try to do something that's enforceable and something that accommodates the applicant. I solicit your support, gentlemen.

COMMISSIONER TRUJILLO: I think that his agreement to write the letter, the connect to the waterline is enforceable. It is in writing, it's signed by him. Whenever the waterline gets in front of his property he'll connect to it and I trust the family. Nothing has happened up to now and I speculate, I hope, that nothing will happen for the next 100 years to this family.

CHAIRMAN DURAN: How long have you lived there?

MR. SAIZ: Twenty years. Lived in Santa Fe all my life. We bought a house, well, we bought some property out there and built a house about 20 years ago. We brought all our daughters up there. And the rest of them live in Albuquerque. We'd like to see at least one stay in Santa Fe. And my word is good. I'll put it in writing.

COMMISSIONER SULLIVAN: I don't see a letter. I see a letter from the applicant requesting but I don't see a letter—

MR. SAIZ: The letter was never written. I wrote one up here and if you need it signed, or if you want me to write a different type of letter, I can. I'll tell you what the letter says.

COMMISSIONER SULLIVAN: Mr. Kopelman, while he's looking at that, what would be the enforceability of a letter from Mr. Saiz? Or any other applicant or owner?

MR. KOPELMAN: Mr. Chairman, if it's a condition of approval and he's able use a shared well and then he's required to hook up later, the only remedy we'd really have is to go to court. It would be a condition of approval and I don't think we've ever done that on these kind of situations.

CHAIRMAN DURAN: It would be a little embarrassing for you wouldn't it?

MR. SAIZ: I wouldn't do that.

CHAIRMAN DURAN: Drag you to court.

COMMISSIONER SULLIVAN: I think what Mr. Kopelman is saying is

2179052

that typically, we haven't had the staff or the resources to do that and we haven't done. I appreciate what the applicant is saying. I think a trip down to the bank, say I want a \$2,000 letter or credit, and we're finished.

MR. SAIZ: Excuse me. This is the letter I wrote up. I don't know. It says, to Santa Fe County, Attention County Commissioners: Regarding connecting to the community water system. Upon approval of my request for the property split, I agree to the community well system, up to and including one year of the date of approval. This is contingent on the actual community well waterline being run down our main County road, Paseo C de Baca. And I signed it. It's dated today. I didn't know if I'd need it or not.

COMMISSIONER SULLIVAN: I've got a motion I don't know if anybody seconded it.

CHAIRMAN DURAN: Oh, was there a motion?

COMMISSIONER CAMPOS: I'll second for discussion.

The motion to approve LCDRC Case #V 02-5120 contingent upon a letter of credit failed by a [1-2-1] voice vote with Commissioner Sullivan voting in favor, Commissioners Duran and Trujillo voting against, and Commissioner Campos abstaining.

CHAIRMAN DURAN: Well, let me ask you, would it be—if we did the same motion without your requirement—I'll make a motion to approve the request with staff conditions and the applicant—with the additional condition that the applicant will hook up to the County water system within one year of it being in the road and that you give us a letter that you will do that.

MR. SAIZ: Yes. I have a letter signed.

CHAIRMAN DURAN: That's my motion.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman, discussion and clarification. When you say hook up you mean that he will hook up both homes.

CHAIRMAN DURAN: Yes. Both homes.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Point of clarification or point of order. Do we need three votes to carry a motion with four people here?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, yes you do.

The motion to approve LCDRC Case #V 02-5120 with staff conditions and an additional condition to hook up both homes to the County water system failed to obtain a majority of quorum by a [2-1-1] voice vote, with Commissioners Trujillo and Duran voting in favor, Commissioner Sullivan against and Commissioner Campos abstaining.

2179053

MR. KOPELMAN: Mr. Chairman, the way the rules read is if somebody is present and doesn't vote in the affirmative, it in effect is the same as a no vote because you don't have a majority. So you've had that happen twice now on motions so I think at this point we're going to need to bring it back under the rule of order.

CHAIRMAN DURAN: We need to bring it back at the next County Commission meeting. Is it the next County Commission meeting?

MR. KOPELMAN: Mr. Chairman, we usually do it at the next land use meeting, I believe.

COMMISSIONER SULLIVAN: Let me ask Mr. Saiz, does this letter of credit—

MR. SAIZ: I don't know what all is involved in that. If it's going to—my problem with it is it's going to delay me starting her house. The school year starts in August. It would be nice if I could have her here by August and she wouldn't have to be commuting back and forth to Albuquerque. She did it this year. She's going to have to get on a van next year. I don't know if that means anything to you guys but it bothers me.

COMMISSIONER SULLIVAN: I think you've already got a delay here.

MR. SAIZ: And if this delays me—what is this going to delay me now if we go to another Commission meeting? Another month?

CHAIRMAN DURAN: It may be a month. If Commissioner Gonzales isn't here for that meeting and he's out quite a bit, it would be another month. So if I could offer a suggestion here, getting a letter of credit is like \$20.

MR. SAIZ: The money is not the problem.

CHAIRMAN DURAN: And all you do is you go to the bank and ask them for a letter of credit. They issue you a letter of credit and you bring it in and you get your building permit. Otherwise, you wait 30 days, and possibly 60.

MR. SAIZ: Let's go with the letter or credit. I don't have any problems with that.

CHAIRMAN DURAN: Would you like to restate your motion?

COMMISSIONER SULLIVAN: I make a motion again, Mr. Chairman, if that's in order. It would be to approve the requested variance, with staff conditions and an additional condition that the applicant provide to the County a letter of credit for the amount of the construction of a waterline to serve both homes. A letter of connection from the County water system.

CHAIRMAN DURAN: I'll second it. Any further discussion?

The motion to approve LCDRC Case #V 02-5120 with County conditions and a condition that the applicant hook both homes up to the County water system as guaranteed by a letter or credit passed by unanimous [4-0] voice vote.

COMMISSIONER SULLIVAN: See, that's unanimous.

CHAIRMAN DURAN: If you need help with that letter of credit, maybe

2179054

Roman can help you out, give you a copy of one that you'll need from your bank. Who do you bank with?

MR. SAIZ: Used to be Sunwest. Bank of America. I can get one. That won't be a problem.

CHAIRMAN DURAN: It won't be a problem. Any of those bankers know what you're talking about.

COMMISSIONER SULLIVAN: I think Mr. Saiz this is your faster way of doing it.

MR. SAIZ: That's what I wanted. I wanted to get it down. Thank you very much.

CHAIRMAN DURAN: Thank you.

- X. A. 8. **EZ CASE # S 02-4061 Heartstone Subdivision Heartstone Development LLC. Carl Diamond applicant, Gorman & Associates, agent, request final subdivision plat and development plan approval for a 24-lot residential subdivision on 60.2 acres. The property is located off Tano Road West (County Road 85-A), within Sections 3 & 4, Township 17 North, Range 9 East (2-Mile EZ District).**

VICKI LUCERO (Review Specialist): Thank you, Mr. Chairman. On March 14, 2002, the EZC granted preliminary development plan & plat approval for a 24-lot clustered, residential subdivision on 60.2 acres. On May 9th, the EZC acted on the final development plat and plat request.

The applicant has addressed staff's redline comments and comments from other reviewing agencies and are now requesting final plat and development plan approval. The property is located in the Basin Hydrologic Zone where the minimum lot size is 2.5 acres per lot with proven water. At this rate, the total acreage allows for 24 lots. The applicant is proposing to transfer the density from the entire tract to the southern portion of the property where the 24-lot cluster subdivision of 0.5 acre lots will be created. The remaining acreage from the 60.2 acres will be dedicated as common open space. The property is currently vacant.

Recommendation: This application is consistent with the previously approved preliminary plat and development plan. The application is in accordance with the Extraterritorial Subdivision Regulations. Staff's recommendation and the decision of the EZC was to recommend final development plan and plat approval for a 24-lot clustered, residential subdivision on 60.2 acres subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN DURAN: Yes.

[The conditions are as follows:]

2179055

1. Development Plan & Plat with appropriate signatures must be recorded with the County Clerk's office.
2. All redline comments must be addressed.
3. Water use will be restricted to 0.25-acre feet per year per residential lot and the water use for the common areas will be restricted to 3.8 acre feet per year. Water restrictive covenants must be recorded by the applicant with the Final Plat.
4. Each lot must install a separate water meter and report water meter readings to the County Hydrologist annually by March 31st of each year.
5. The irrigation systems for the common areas shall install a water meter installed and water meter readings shall be recorded annually and reported to the County Hydrologist by March 31st of each year.
6. Road names and addresses must be approved by Rural Addressing.
7. All utilities must be underground.
8. The developer must pay the solid waste fee in accordance with subdivision regulations, prior to recording the final plat.
9. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) County Archaeologist
 - j) State Historic Preservation Office
10. That there be a secondary access. [Added at motion.]
11. That the lots be hooked up to County or City water when the lines are within 200 feet of the property. [Added at motion.]

CHAIRMAN DURAN: Are there any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would be glad to yield the floor to anyone else.

CHAIRMAN DURAN: No, no, no. We're going right to left.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chairman. Vicki, how far is this development from the City waterline?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, the City line actually extends into Tano Road but not very far off of US 285. I'd say it's approximately two miles.

2179056

CHAIRMAN DURAN: Two miles from the property?

MS. LUCERO: From the property. Yes.

COMMISSIONER SULLIVAN: From the property to the line. Could you explain to me, I'm a little confused, and this is why I was calling you and we were swapping phone calls and didn't catch up with each other. The requirement once you go over five lots is to provide, in this case a shared water system but not a community water system. Is that correct? Could you explain to me the difference between a shared well system and a community system?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, a community water system would have to be designed to standards from the State Engineer's Office and from the Environment Department. A shared well will serve, I believe they'll each serve up to four lots. It's actually a requirement based on the lot size, the net density. Anything above 2.5 acres doesn't require, if it's 24 lots or less, it wouldn't require a community water system. And the net lot size is just above 2.5 acres.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, if I may also add, a community water system would require water rights, whereas a shared well system would not.

COMMISSIONER SULLIVAN: Okay. So because this is right at the limit, which is 24 lots of a Type III subdivision. These lot sizes are only about a half acre to .6, but you take the gross, you're considering the entire 60 acres and dividing it by the 24 lots and that's how you determine whether a community water system is needed?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Looks like a good area for reconsideration in the Code because once you move all those homes down to a dense environment that's where your fire situations become more hazardous. So because the gross is less than 2.5 per acre and because it's 24 lots or less, but because it's over—it's five lots or over, they have to have a shared well system, with a 60,000 gallon fire tank. Is that—

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: And if it was 25 lots then they would have to have a community water system, which means one well or lines connecting everybody together the way a municipal system would typically be.

MS. LUCERO: Right. That's correct.

COMMISSIONER SULLIVAN: The other question I had is there was no Fire Marshal review for this and I see you've handed out one now [Exhibit 5]. One of the roads appears to me to be a 4,000 foot dead-end road with two side roads going off of it. Correct me if I'm wrong on that, if I was reading the drawings wrong. Is that typically something that the Fire Marshal approves or recommends?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, they do look at the length of the roads and whether it ends in a cul-de-sac, the length of a cul-de-sac and that type of thing to see if there's adequate access and circulation.

COMMISSIONER SULLIVAN: There is only one access in and out, is that

2179057

correct?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, there's actually two points of access. There's one directly off of Tano Road West and then that goes around in a loop and intersects with I believe it's Tano Escondido on the east side of the property.

COMMISSIONER SULLIVAN: I was just looking at what was in the packet under NB3-30, and it showed one route coming in and two cul-de-sacs. Heartstone Road coming in and then two side roads, Plano Arbolito and Via Diamante, as two side roads, and it looked like that was the end. Maybe the applicant can address that.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, if you look at page NB3-26, there's an access off of West Tano up on the north, and then that road loops around and intersects with Tano Escondido on the east side of the property boundary.

COMMISSIONER SULLIVAN: Both of those are public roads?

MS. LUCERO: Yes.

COMMISSIONER SULLIVAN: Okay. That didn't show then on NB3-30 I guess. Do you see where I mean on 3-30?

CHAIRMAN DURAN: So the width of the cul-de-sac is less than 1000 feet?

MS. LUCERO: Mr. Chairman, yes. That's correct.

CHAIRMAN DURAN: Because I think the concern you have is that you need a variance for a cul-de-sac that is greater than 1000 feet.

COMMISSIONER SULLIVAN: That's correct. Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any other questions.

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Is there a road paving requirement that's suggested here that's not part of the conditions?

MS. LUCERO: Mr. Chairman, Commissioner Campos, I believe the applicants are proposing a basecourse road and if it's a road serving up to 30 units, that's allowed.

COMMISSIONER CAMPOS: Did someone make a recommendation on staff that it should be paved?

MS. LUCERO: Mr. Chairman, Commissioner Campos, there is a recommendation in the Public Works memo that's requiring paving of Tano Road from where it ends now to the second, to the entrance off to the property, off of West Tano Road.

COMMISSIONER CAMPOS: Is that part of the conditions of approval?

MS. LUCERO: There's a general condition that requires compliance with the County Public Works Department. It's condition number nine, and I believe the applicant is in agreement with that condition.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Is there something in the Code that requires them to do that?

2179058

MS. LUCERO: To pave, Mr. Chairman?

CHAIRMAN DURAN: Right.

MS. LUCERO: I don't believe that there is a requirement. It's just something that the Public Works director felt was important.

MR. ABEYTA: Mr. Chairman, if I may also add, several years ago there were a lot of developments off of this County Road 85A and at that point, the Board of County Commissioners imposed that 85A be upgraded because there was a lot of concerns that it wouldn't meet, that it didn't meet current standards. So I think Public Works has been evaluating that as projects come in and it may have reached the point to where it now needs pavement based on the amount of traffic that it's carrying right now. So it might be Code that they do that pavement, but we can double check with Public Works

CHAIRMAN DURAN: That's fine. The applicant's in agreement with it.

COMMISSIONER SULLIVAN: I did have one other question, Mr.

Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: In the conditions, I didn't see any conditions that required future connection to the County or City water system if it came within 200 feet, but I do see it in the disclosure statement. In the disclosure statement the applicant says, "Although extension of County or City water service to the subdivision is not anticipated, Santa Fe County has imposed a condition of approval requiring future lot owners to connect to the County or City water systems when and if service is available within 200 feet of the property line of the respective lots."

So is that a condition? Maybe Roman can help me here. Is that a condition as a result of that being—I believe that's a County ordinance, isn't it? A general County ordinance? Or is that a condition that the applicant is just simply agreeing to?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I know it's not a County ordinance right now so I don't know if maybe Vicki has had discussions with the applicant that should be clarified.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan—

RICHARD GORMAN: That recommendation came from the City staff.

MR. KOPELMAN: Excuse me, you just need to be sworn in if you're going to testify at all.

COMMISSIONER SULLIVAN: That's my last question so I'll—

CHAIRMAN DURAN: Any other questions of Vicki? Thank you, Vicki. Richard, please state your name for the record and let the recorder swear you in.

[Duly sworn, Richard Gorman testified as follows:]

MR. GORMAN: Mr. Chairman, my name is Richard Gorman. My address is P.O. Box 8841, Santa Fe, New Mexico, 87504. [inaudible] City staff had recommended—we're miles from either the City or the County water systems but they had suggested that if either of those systems were extended within that distance that we'd be required to connect. We've never had a problem with that whatsoever.

2179059

Regarding Mr. Sullivan's point that connecting to Tano Escondido, we do have, you can see down here at the bottom, we can connect down at the bottom and we'd have no problem with a condition of approval being imposed saying that we have secondary access to Tano Escondido. Paving of Tano Road, we've agreed to extend—all Tano Road now is paved and it starts to extend on Tano West. We've agreed to take it from where the paving ends now and extend it to the entry into our road. Just so that the Commission knows, we also intend to pave our roads, but it's not required, so we didn't include it in our plans so we wouldn't have to bond for it. But all our internal roads will be paved as well. But we have agreed to extend Tano West paving to our entrance.

With regard to the issues of changing ordinances to require community water systems, Commissioner Sullivan, I beg to differ with you on that. What we attempted to do here was break the mold of making 2.5-acre lots over and over again. What we tried to do is save the pristine meadow. Many of you have seen that out on Tano Road. What we attempted to do in dealing with our neighbors and assessing the land was to take all of our development out of the meadow, to preserve the meadow in its entirety. And it would have been unfortunate to penalize us, to say, because you're clustering down like that you have to do a community water system. Rather than do that it just made more sense to do 2.5-acre lots.

What we attempted to do here was come up with a very rational, environmentally sound project. We have 60,000 gallons of water storage. We have hydrants. We have everything. I might add we're in total agreement with all conditions recommended by both City and County staff.

CHAIRMAN DURAN: Richard, is this project east of the Welsh project?

MR. GORMAN: Yes, sir.

CHAIRMAN DURAN: So it's that big meadow there?

MR. GORMAN: Yes. And in fact you can see here, the meadow is the part that I've colored yellow. And we're agreeing, we've taken all the high ground, out of respect for the area. We're dedicating all the high ground where there are fabulous views as permanent open space.

COMMISSIONER SULLIVAN: Richard, let's me honest here. View lots sell more than meadow lots and you make the disclosure about the view lots in here. And I think clustering is a good idea because you're going to get a lot more view lots.

MR. GORMAN: Commissioner, if you listen to me maybe we could address that. I said we've dedicated the high ground to common open space.

COMMISSIONER SULLIVAN: Yes, but also you've got the lots that have the best views where the houses are.

MR. GORMAN: No, sir. That's inaccurate.

CHAIRMAN DURAN: It's not.

MR. GORMAN: That's County dedicated open space. This is also. We're clustering on the low lands.

COMMISSIONER SULLIVAN: Oh. Do you want me to read you what's in

the disclosure statement about the lots that have views of the Sangre de Cristo Mountains before you call me a liar.

MR. GORMAN: I'm not saying that we don't have views from here, but obviously, the entire high ground, the highest land in the subdivision, is dedicated open space. We do have views, Commissioner, we're not in a gully.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: Okay. Do you have anything else to say, Richard? This is a public hearing. Is there anyone out there either for or against this project? If not, what's the pleasure of the Board? I'd like to move for approval with the conditions of EZ Case #S 02-4061, and I'd like to commend you on preserving that open space. I was out there on that Welsh project which is a lot of 2.5-acre lots that really take advantage of the views there, and that meadow is beautiful. In fact the people I was out there with asked me about that meadow and now I can tell them.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to add in the two conditions that the applicant has agreed to, and one is the secondary access connection, which is not shown on the current, and the second is that the lots will be connected to City or County water when they are within 200 feet.

CHAIRMAN DURAN: You agree with those?

MR. ABEYTA: Mr. Chairman, if I may just clarify for the record. This is in the EZ Two-mile so that is ordinance. Vicki has corrected me.

COMMISSIONER SULLIVAN: Is it a problem if we put it in the conditions?

MR. ABEYTA: No, no, it's required anyway.

COMMISSIONER SULLIVAN: Just as a disclosure mechanism.

CHAIRMAN DURAN: Okay, I'll accept that as a friendly amendment.

COMMISSIONER CAMPOS: I'll accept that too.

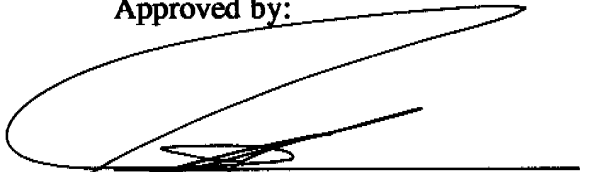
The motion to approve EZ Case #S 02-4061 passed by unanimous [4-0] voice vote.

2179061

ADJOURNMENT

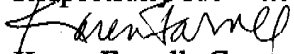
Chairman Duran declared this meeting adjourned at approximately 8:25 p.m.

Approved by:

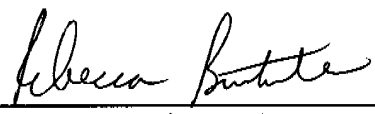


Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



San Marcos District Planning Request

Pursuant to Santa Fe County Ordinance No. 2002-5 (sections 3.2 and 4.1.1) and on behalf of The San Marcos Association and the other organizations and individuals named herein, and having received a unanimous vote of the CDRC for a positive recommendation, we do request approval from the Board of County Commissioners to be recognized as the San Marcos Contemporary Planning District.

We further request approval of the boundaries and the Planning Committee as set forth herein (per section 4.1.2 a) and 4.1.3 and 4.1.4.

Specific Requirements

2179062

4.1.3

- a) Evidence of meeting the requirements is included herewith. The map titled: "San Marchos Association Area" is the same one presented to the State in 1984 when The Association reincorporated as a non-profit 501 (c) 4. This area meets all the requirements of sections 3.1 and 3.2 and 4.1.1.
- b) The list of Planning Committee Members is included and so marked.
- c) Conditions which justify the need for planning are marked: Planning Needs and Conditions.
- d) There has already been considerable public participation and will continue to be. From December of 2000 there has been public discussion of the various planning needs of our District and people have been volunteering to be on the and on the various sub-committees which will be necessary.
- e) Our requests for County Staff involvement will be held to a minimum due to the well understood limitations of their staffing. Any additional involvement they may wish to have will always be welcome and much appreciated.

We have been offered that the GIS facilities of T.P.L. be available to us and will use County GIS services only if the County specifically wishes to be directly involved. Cooperation by the County with T.P.L. in sharing data bases would be mutually helpful and reduce any tasking of the county's limited resources.

We have experts in meeting facilitation and physical facilities for meetings. The only direct involvement we do need is direction to allow us to proceed as the County Planning staff would wish. This is spelled out in section 5.3.6: "*Planning Staff will work with the Planning Committee to reach an agreement on the planning process and the basic guidelines for decision making that shall be followed throughout the process.*" After that we would expect only what additional involvement the Planning Department would see fit to commit in order to keep themselves informed and to keep us on the "right track".

We wish to be very clear that we have no wish to exclude County Planning from our activities and welcome and involvement they can afford. We do, none-the-less, wish to be allowed to proceed in a timely and efficient manner to work at our own pace on situations which we see as being of immanent import.

- f) Resources to be given to the project include the GIS services, facilitation services and physical meeting places mentioned above. In addition, a number of the volunteer Planning Committee members are trained planners and experienced and are contributing their services. 1000 Friends of New Mexico is acting as our sponsoring agency to try to obtain grants for various elements of the effort. The committee will obtain necessary talent to draft preliminary ordinances, developed and codified so as to match the structure of the County General Plan. This is intended to minimize the time requirements for County Staff which will, of course, have final review and authorship of such items. The publication of all meetings and the progress of all planning will also be contributed by The San Marcos Association.
- g) A map per initial agreement with Planning staff is included.
- h) We are not seeking Critical Planning Area designation.

- i) The contact organization recommended is The San Marcos Association. This is a very effective and well respected neighborhood organization with more than twenty five years of service to the San Marcos Community. Hugh Nazor is currently the Board of Directors member designated to manage this project for the Association.
- j) As mentioned above, planning preparations have been a continuing topic of the newsletter of the San Marcos Association. Our most recent newsletter (delivered to all Commissioners, the County Manager and all CDRC members) contained a story about seeking planning approval and the proposed map. The only response was some disappointment that the Gold Mine Road area was not to be included. There is an email list to which notices are mailed on a more frequent basis. Any interested resident or landowner in the San Marcos Area may be added to this site. Additionally there is a web site which will detail all activities of the planning effort. All meetings will be announced. All actions will be included in minutes published on the site, and there will be the ability to email any suggestions and or comments about any and all elements of the planning. If this latter becomes active enough, a we will establish an automatic mail list so that any and all may publish comments to all others on the list. We would monitor such a list for ideas, reactions and any sense of building community consensus.

Karma Anderson

Works for the state in the Ground Water Quality Bureau, Holds a masters in Environmental Policy and Management and has studied land use planning at the graduate level. She is a experienced facilitator of community, business and governmental meetings and projects and worked on the Los Alamos Community Development Plan. She has nine years of experience in horticulture and landscaping. She lives on Crazy Rabbit Road.

2179064

Zach and Alice Bauer

Are real estate agents and work and live in the South Fork area of the District. Both are Directors of the San Marcos Association. Alice has a B.A. in Spanish Studies and has worked as a professional translator. Both have a background in commercial and retail sales and public service businesses and well tested "people skills".

Bill Baxter

Is a founding Director of the Cerrillos Hills Park Coalition. He is a graduate Anthropologist and an extremely popular and informative guide in the Cerrillos Hills Historic Park and the San Marcos Pueblo. He has years of experience with computers and people – an unusual combination. He is a great asset in reaching for consensus with diverse groups.

Helen Boise

Is a long-time resident of the Turquoise Trail, a member of the Turquoise Trail Association and a founding member, Director Emeritus and often President of the San Marcos Association. She has participated in more community planning efforts than any other person in Santa Fe. She began when her house was the sixth building south of St Michael's. She lives about a quarter mile south of Lone Butte, and there are now hundreds of houses between her and St Mike's. Helen knows more history of and better understands the complexities and intricacies of the planning of this area than does anyone.

Mary Clark

Lives on CR-55A in the southern most part of the district. She lived in the greater Santa Fe area since 1974 and has worked in the steward program with the Cerrillos Hills Park Coalition. She expects to continue to work with that group and also participate in plans for the Petroglyph Hill .

Richard Crombie

Is a graduate Urban and Regional Planner. He has many years experience as Director of planning in various states and organizations. He was Director of the Long-Range Planning Group at L.A.N.L. for ten years and was a planning consultant to Santa Fe City and County for about five years. He led the Cerrillos Traditional Village through its successful planning effort. He is currently a real estate Owner/Broker at Stoneridge Reality in the heart of the San Marcos District.

Virginia Eldridge

Holds three separate degrees in Journalism, Visual Arts and Illustration. She is a Director and Secretary of The San Marcos Association and is a past president of the League of Women Voters of Santa Fe County. A twenty six year resident of the area, she served on the City task force for their Growth Management Plan and the committee which wrote the 1999 County General Plan. Virginia lives in the center of our District, east of SR-14 near the new fire ststion.

Claire Fulenwider

Is a founding Director and President of the Cerrillos Hills Park Coalition. She holds MS and Phd degrees in Public Policy/Political Science with concentration in political economics. She taught public policy, administration and planning at the university level. She has been V.P. of Development and Planning for a Fortune 500 company and President of one of its subsidiaries. She is working as a financial consultant for Salomon Smith Barney in Santa Fe and lives in Rancho Alegre.

Marie Harding

Has lived in the District for many years. She ran Synergia Ranch and has developed that property on the west side of the District into Silver Hills Estates. Marie has been an energetic and active community participant for many years.

Ted Harrison

Is Senior Vice President, Director of Conservation Ventures at the Trust for Public Land. For about ten years prior, he was Senior Vice President, Southwest Regional Director and has been a professional planner for more that twenty years. He hold undergraduate degrees from Berkeley in both Political Science and Anthropology. His Masters is in City and Regional Planning, Economic and Real Property Development. The TPL is in the process of developing over four thousand acres of the Thornton Ranch immediately East of the southern part of the San Marcos District.

Steve Herrera

Represents Rancho San Marcos Homeowners Association and was the first resident in that development. He is Chairman of the Association's Architecture, Control and Building Committee. Steve is a Santa Fe native and has been associated with Woods Architects and Builders for over twenty years.

Rick Hughes

Is the owner of the multi-thousand acre Bonanza Creek Ranch. His property is by far the largest and most important single holding influencing the future of the San Marcos District. Rick owns and operates a concrete and steel contracting business in Albuquerque. He grew up on the Ranch and has a continuing interest in the future of his property and the welfare of the greater community.

2179065

Raymond Lutz

Is a Registered Professional Engineer with a B.S. in M.E. and an M.B.A. from UNM. His PhD in I.E. is from Iowa State. He has served on a very great number of professional and community service organizations – locally on the Santa Fe Opera Board where he is still on their long-range planning committee. His list of publications is impressive. His professional Academic, Administrative and Consulting career extends from the 1950s into the present century. He has a considerable breadth of experience. He lives in and is active in the San Marcos District.

Tom McDonnell

Is the owner of the San Marcos Feed Store, the San Marcos Café and the Chief of the Turquoise Trail Volunteer Fire Department. His establishments and interests are at the center of our community. He is especially well positioned to analyze the needs of the district for institutional and commercial locations. He is the most informed person as to the fire protection requirements of the community.

Patrick Mohn

Is a professional photographer and a registered nurse working at St. Vincent's. His artistic work centering on his home community of Cerrillos and the Cerrillos Hills is well known. His family has deep roots in the area and a knowledge of the wants and needs of the people. He is a Director of the Cerrillos Hills Park Coalition.

Hugh Nazor

Lives on CR 42. He holds a B.A. in Psychology and a Wharton M.B.A. He has been Director of Planning (and other things) for a Fortune 500 company, owner of his own companies, and has years of experience in management consulting, specializing in organization analysis. He is a Director and Treasurer of the San Marcos Association and the Cerrillos Hills Park Coalition. He has been on numerous non-profit, community and government boards and committees both appointive and elective. He has written and re-codified Land Use Ordinances and Plans for communities in New England.

Kim Sorvig

Lives on CR 42 and is a Landscape Architect. He is very widely published in Architectural Journals, general interest magazines, his own books, and journals of The American Planning Association. He has worked with NM State and County departments and consulted on the US Green Building Council's LEED voluntary rating standards as well as a chapter in their *Sustainable Building Manual*. His time available to the committee may be limited as he is working with the University of Guadalajara to help them form Mexico's first degree program in landscape architecture.

Archie Tew

Lives off of SR-14 and owns additional land near Cerrillos. He is an international consultant in group dynamics, cultural change and Strategic Planning for organizations to such firms as American Express, Phillip Morris International and Baxter Health Care. He was eight years with the Pecos River Learning Center, formed One World Learning in Atlanta and Mohala Inc. here in Santa Fe. He is on the Board of the San Marcos Association.

Warren Thompson

Will join the committee as his very busy schedule allows. He is a well known figure in local planning and development, and partner in Rancho Vielo Partners currently planning the mostly-open-space development immediately east of the northern section of the San Marcos District. He has participated in: the C.C.D. plan, the La Cienega Plan, the I-25 Highway Corridor Plan, and the Airport District Plan. We are fortunate to have whatever time he has available to work for the betterment of the greater community.

NEEDS AND CONDITIONS

2179066

NEEDS

The District is surrounded on all sides by intense development pressure. There are over 15,000 acres in and immediately around the district actively in private planning as we speak. While we believe that the majority of these plans are creative, and far better than the average development project in intent and design, there is lacking the necessary integration of these plans for the benefit of the whole district. The effects on transportation needs, school requirements, water use, fire prevention, open space and trails linkages and the needs of institutional and commercial facilities are all concerns involving the greater community and beyond individual projects.

Additionally, there are thousands of acres poised on the verge of active development. Family members are considering the future. Consideration of transfer of some 260 foot acres of water rights is currently before the State Engineer. These probable development areas must be considered in the planning for the needs listed above.

There are many hundreds of approved development lots going on the market. The move into Santa Fe County will fluctuate with economic conditions and the retirement demographics of California, Texas and some East Coast areas. While we have just passed through a slight recession, such migration is expected to increase. The community needs will be greatly influenced by the sale of these lots in various locations in and around our District of our district.

The San Marcos District lies between the planned or in-planning areas of: the Simpson Ranch, the Community College District, the La Cienega La Cienegulla District, the San Pedro District, the I-25 corridor, the Madrid Community and the Traditional Historic Village of Cerrillos. In short, the San Marcos District would be the piece to fill in the planning puzzle. The other aspect of that fact is that our District cannot afford to proceed without planning when all about us have plans in place.

WATER

We are all quite familiar with the water problems in the part of our district directly down flow from Eldorado. These and other areas of our District have been identified as vulnerable areas for increased water use. Recent issues involving very high pumping from wells in the CCD are a very real threat to our water resources.

There is a lot of language in the Santa Fe County Growth Management Plan (General Plan) about Rural District planning, but there are no specifics which may be used in the near future to address our problems. We applaud the goals of conserving rural character and preventing sprawl, but there are no means offered by the Rural District language except for the planning authorization which we are seeking.

This is for two reasons. First the General Plan is written in very general language to cover all parts of the County. Some items are applicable to our District, others are clearly not. Second, the Rural District as defined in the General Plan is best described as a conceptual outline. There are some dozen issues defined for consideration about making

development choices. While there is talk of putting greater detail into these issues in some future re-codification of the General Plan, that may still be years in the future.

Page 83 of the General Plan states: *"The San Marcos area down to Cerrillos near SR 14 has also grown considerably. Water limitations will continue to restrict growth more here than lands in the Basin zone."* This is very true; at least the water limitations ought to appropriately restrict growth, but local planning and appropriate ordinances are necessary to assure this.

2179067

The District is mostly classed as "unknown" in the County water analysis. The State Engineers office has defined areas of vulnerability within the District. Development and the granting of variances within these areas continues. The need to define the water resources and to act accordingly is immediate. Community Planning Authorization is necessary to allow this to start.

ROADS

Our central road is State Route 14: the Turquoise Trail. Our road is a state and a federal Scenic Byway. It is a major rural collector which runs north/south through our District. It is also the road along which the multi state planning being done at the University of Colorado forecasts a joining of Santa Fe and Albuquerque by continuous development. One would normally expect such sprawl and metropolitan in-fill to take place along I-25, but the Pueblo lands prevent this.

There is local development which will most certainly impact on our road in the next few years. Now there are fewer than 1,500 residences in the District. There are already approved subdivisions which would increase that number considerably. There are also over 400 approved sites immediately south of us in the Gold Mine Road area. Traffic from this area has nowhere to go but via our road.

The TPL development on the Thornton ranch will add traffic to CR-42 and on to SR-14. There will likely be some 260 units within this development. While this project looks to be a wonderful solution to provide open space, public access and living units, the impact on traffic must be planned for.

Potential development now under master plan review immediately north of us in the CCD would add over 4,000 residential units and millions of square feet of commercial space. The resulting traffic increase on the part of SR-14 north of us could effectively block our access to Santa Fe. Future routes must be considered. Planning for the inevitable traffic needs of our area must start now. The planned transportation structure between the major high density development of the CCD and the City must happen. And it must take into account the needs of those south of the CCD.

According to Federal guidelines, Scenic Byways deserve very special consideration and treatment of what will be built along them. There should be a Scenic Byway corridor - within the San Marcos District Plan. As it is now, any intersection along our central road is a potential target for continued commercial sprawl. Given the continuous development along SR-14 north of the prisons, consideration should be given to where the northern boundary of the designated scenic byway ought to be.

OPEN SPACE AND TRAILS

The San Marcos District has more open space, more trails and trail intersections than anywhere else in the County Open Land and Trails Plan. The largest concentration of designated Resource Protection areas and the Cerrillos Hills Historic Park are located here. This is the area of the highest foreseen public use of open space and of important central trails system intersections. As mentioned, it is also an area of very great private development potential. We have to be sure that future development and transportation growth do not conflict with the County's planned use of open space and trails

There is constant pressure for gravel mining under article XI of the land use code. Most requests to date have been for mining permits in Resource Protection Areas, and the proposed operations are, in truth, hard rock mines using a loop-hole to avoid regulations. While we are seeking means to truly protect these areas defined in the Open Land and Trails Plan, we need a more complete solution. The Commission has requested that mining zones might be established. We think this is a good idea, and would welcome participation in the process. The pressure on the southwest area of the district, which contains the above-mentioned park and resource protection areas is particularly intense. There is also pressure on our neighboring Traditional Village of Cerrillos. Their buffer zones and resource protection areas we will be recognized in our planning.

COMMERCIAL ZONES

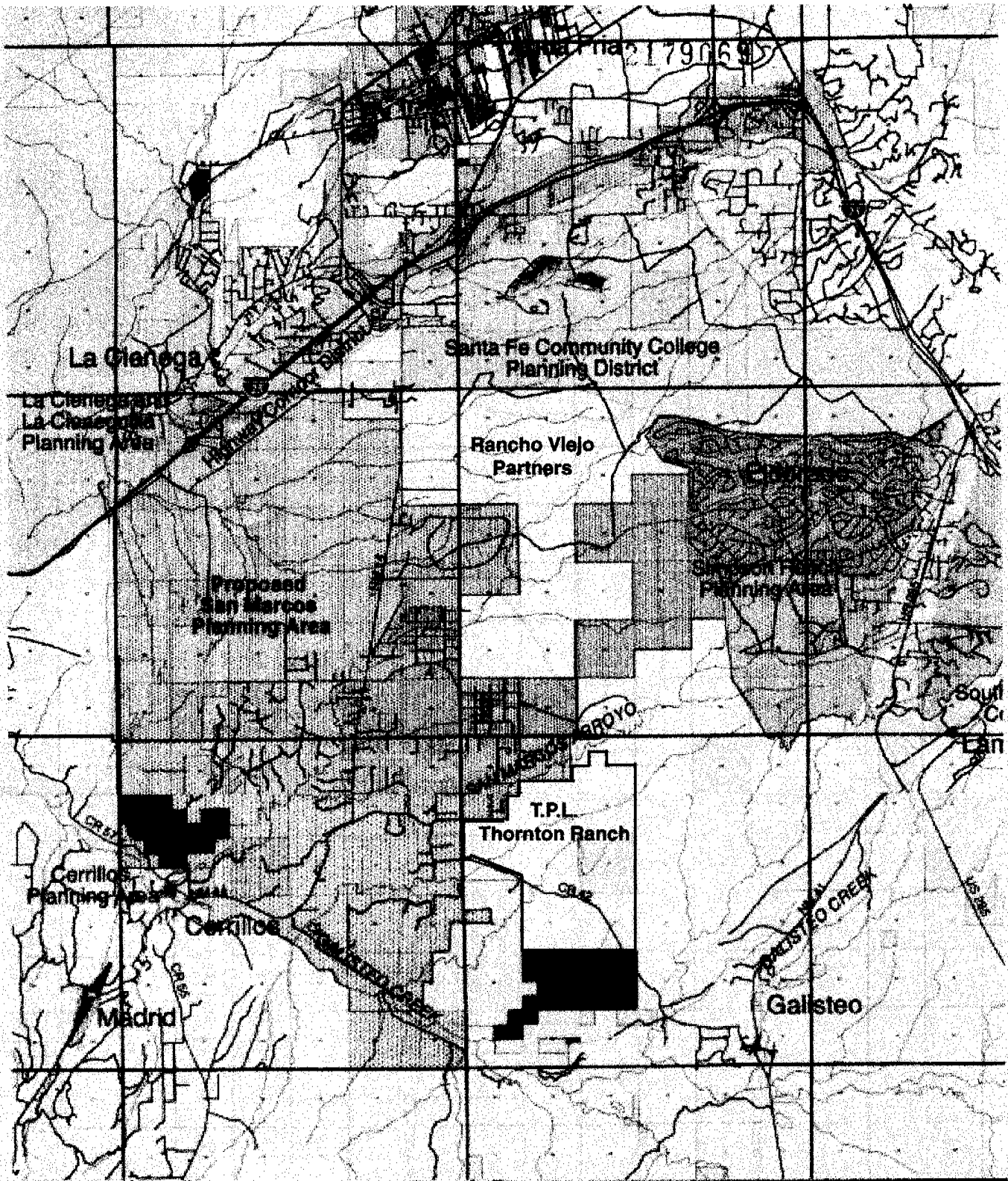
The needs of the District (and those from the Gold Mine Road, Madrid, Cerrillos and Thornton Ranch areas) need to be evaluated. Commercial zones should be defined accordingly. As it is, commercial sprawl is rapidly traveling down SR-14 and is moving in our direction. The need for institutional facilities must also be projected and planned for.

Again, the plans of those on all sides of us (particularly the CCD) must be considered. If commercial facilities are built close to our borders and there is adequate transportation planning to allow our people to access these sites, the need for additional commercial facilities within our district will be reduced. Of course, this depends on, among other things, the projected size and growth rate of our District.












OTHER CONDITIONS/PLANNING ISSUES

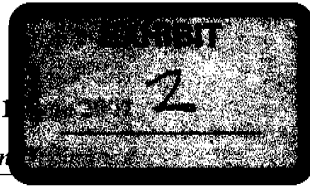
While land use issues is the primary focus of most community planning, other items are also important. Future fire prevention capabilities to match anticipated growth should be considered. Any building standard which effects water availability ought to at least be considered. Such things as fresh water management systems, multi-flow waste water systems, and water collection and storing facilities come quickly to mind. How practical it would be to mandate such things for new or rehab construction must be evaluated, the goal being sustainable systems.

Hydrologic zones need to be supported and density carefully considered. Noise and light standards should be considered in a Rural District where residents value privacy and clean views of the night sky.



Legend

- | | | | |
|---|--|---|---|
|  | Santa Fe County Open Space |  | Madrid Planning Area |
|  | Proposed San Marcos Planning Area |  | La Cienega and La Cieneguilla Planning Area |
|  | 285 South Corridor Plan |  | BLM Land |
|  | Simpson Ranch Planning Area |  | Forest Service Land |
|  | Santa Fe Community College Planning District |  | State Land |
| | |  | State Penitentiary |



Proposed Amendments to the La Cienega and La Cieneguilla Community Plan Ordinance

2179070

Throughout the entire document:

Add to all references for the Code or other County regulations the following; **as amended**.

Page 2:

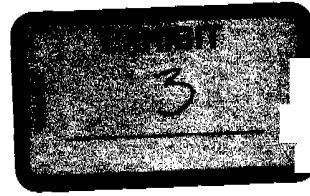
Section 6.4 Zoning Density

Add to the second sentence of 6.4.2, 6.4.3, and 6.4.4 the following clarification language:

“With proof of 100 year water supply **through a geohydrologic reconnaissance report,**
...”

Add to the third sentence of 6.4.2, 6.4.3, and 6.4.4 the following clarification language:

“If an adequate 100 year supply of water, **and no impairment to neighboring wells,** is
proven ...”



Subject: Riparian Restoration ordinance

Date: Tue, 4 Jun 2002 09:04:34 -0600

From: "Santa Fe Watershed Association" <sfwatershed@earthlink.net>

To: "Olafson, Paul" <polafson@co.santa-fe.nm.us>

2179071

Hi, Paul: this is just a quick note to express my support for the revised language in the La Cienega Valley Land Use ordinances regarding riparian restoration projects. I think we've struck a balance between protecting traditional water uses and leaving open the possibility that carefully designed riparian and wetland projects can be neutral or even beneficial to such traditional uses, while enhancing the natural environment and quality of life in the Santa Fe River watershed.

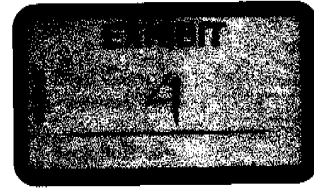
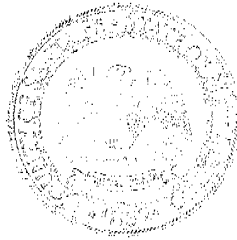
Many thanks for incorporating our concerns and comments as you developed this language.

Paige Grant
Executive Director
Santa Fe Watershed Association
PO Box 31160
Santa Fe, NM 87594
(505) 820-1696

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Estevan R. Lopez
County Manager

Santa Fe County Board of County Commissioners
Marcos P. Trujillo, District 1
Paul Duran, District 2 (Chairman)
Paul Campos, District 4
Jack Sullivan, District 5 (Vice Chairman)

2179072

June 11th, 2002

Dear Fellow Commissioners,

I am writing to express my strong support for the La Cienega and La Cieneguilla Community Plan Ordinance. The plan and the subsequent Ordinance have been developed through a long and extensive public process. I have had numerous meetings with community members, property and business owners, residents and Planning Committee members and staff over the past 5 years. Through these private meetings, community wide-meetings and the public hearings before the Board, I feel the Plan and the Ordinance provide a strong vision for directing the community's growth in the future.

As a Board, we have had the privilege to help this community work to organize itself, develop the plan and ordinance, then present them through the public hearing processes. I feel it is appropriate and critical that we continue to honor and support the community by adopting the proposed Ordinance to enact policies called for by the adopted La Cienega and La Cieneguilla Community Plan. Thus, I urge you to vote in support of this Ordinance. Thank you for support of this ordinance and the communities of La Cienega and La Cieneguilla in determining how best to develop for the future.

Best regards,

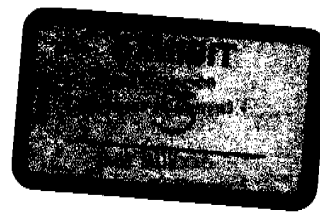
A handwritten signature in cursive script, appearing to read "Javier M. Gonzales".

Javier Gonzales
Santa Fe County Commissioner, District 3

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Santuel O. Montoya
County Manager

**Santa Fe County Fire Department
Office of the Fire Marshal
Official Submittal Review**

2179073

Project Name: Heartstone

Commercial: **Residential:** X **Permit**

Classification: 24 lot Subdivision

Applicant Name: Richard Gorman &
Associates, Inc.

County Case #: EZ-S-02-4060

Case Manager: Vicki Lucero

Applicant Address: P.O. Box 3341
Santa Fe, NM 87504

Fire District: Tesuque

Project Location: Off Tano Rd. W

Applicant Phone : (505)-988-9549

Fee Collected **Yes:** **No: X**

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated:

Fire Department Access

• **Fire Access Lanes**

Curbs adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.

• **Roadways/Driveways**

Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Final acceptance based upon the Fire Marshal's approval.

• **Slope/Road Grade**

Slope shall not exceed 11%.

2179074

- **Restricted Access/Gates/Security Systems**

Commercial developments/buildings may/will be required to install a Knox Cabinet or applicable Knox device as determined by this office for Fire Department access, Haz-Mat/MSDS data, and pre-fire planning information and for access to fire protection control rooms (automatic fire sprinklers, fire alarm panels, etc...).

All gates shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

A final inspection by this office will be necessary to determine the applicability of the installation of the Knox lock access system in regards to emergency entrance into the fenced area. Should it be found suitable for such, the developer shall install the system.

Fire Protection Systems

- **Hydrants**

The water storage system shall incorporate the use of a tank water level monitoring system which maintains the minimum required water for fire protection needs at all times. When the tank water level exceeds the required limits, power to the domestic water pump(s) shall be automatically disconnected. The minimum required water storage for fire protection shall meet ISO recommendations, but not less than 60,000 gallons.

The minimum pressure requirement for a dedicated draft fire protection storage and delivery system shall be 1 psi residual at the hydrant(s).

The water system and hydrants shall be in place, operable and tested prior to the start of any and all building construction. It shall be the responsibility of the developer to notify the Fire Prevention Division when the system and hydrants area ready to be tested.

The water delivery system shall be designed to meet the minimum standards of the Sangre De Cristo Water and/or Santa Fe County Water utilities to allow for future recommended connection to such systems.

Fire hydrant locations shall be no further than 10 feet from the edge of the approved access roadways with the steamer connections facing towards the driving surface. Final placement of the fire hydrants shall be coordinated and approved by the Santa Fe County Fire Department prior to installation.

All hydrants shall have NST ports, as per the City/County thread boundary agreement.

All hydrants shall comply with Santa Fe County Resolution 2000-55, Hydrant Marking and Testing.

2179075

Note: Please have the installing contractor contact us prior to the installation of the fire hydrant, so that we may assist you in the final location placement and avoid delays in your projects' final approval.

- **Automatic Fire Protection/Suppression**

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13D, Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

- **Water Storage/Delivery Systems**

The Developer, Homeowners and/or the Homeowners Association shall be responsible to maintain, in an approved working order, the water system for the duration of the subdivision and/or until connection to a regional water system. The responsible party, as indicated above, shall be responsible to call for and submit to the Santa Fe County Fire Department for an annual testing of the fire protection system and the subsequent repairs ordered and costs associated with the testing.

- **Fire Alarm/Notification Systems**

All Fire Alarm systems shall be developed by a firm certified to perform and design such systems. Copies of the fire alarm system design shall be submitted to the Fire Prevention Division for review and acceptance prior to installation. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use.

• **Fire Extinguishers**

Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by this office. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

Life Safety

2179076

- Access/Egress
- Signage
- Lighting N/A
- Other

Hazardous Materials

- Fuel/Flammable Material Storage
- Explosives
- MSDS N/A
- Other

Urban-Wildland Interface

- Building Materials
- Location/Addressing/Access N/A
- Vegetation Management

General Requirements/Comments

• **Inspections/Acceptance Tests**

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner

shall call for and submit to a final inspection by this office for conformation of compliance with the above requirements and applicable Codes.

- **Permits** Yes


 _____ 3/12/02
Code Enforcement Official **Date**

Through Hank Blackwell, Fire Marshal, Asst Chief
Cc. District Chief
Regional Crews

File: Buster/Landuser/Hearstone/031202